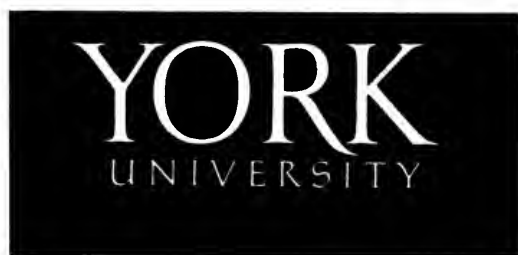




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REVISED STATUTES OF ONTARIO, 1950

BEING A

REVISION AND CONSOLIDATION OF THE PUBLIC GENERAL
ACTS OF THE LEGISLATURE OF ONTARIO, PUBLISHED
UNDER THE AUTHORITY OF THE STATUTES
CONSOLIDATION ACT, 1949

IN FIVE VOLUMES

VOL. 3



ONTARIO

TORONTO

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copy 1

REVISED STATUTES OF ONTARIO, 1950

VOLUME 3

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CHAPTER 219

The Magistrates Act

1. In this Act,

Interpre-
tation.

- (a) "county" includes united counties and provisional county;
- (b) "Inspector" means Inspector of Legal Offices and includes any assistant inspector of legal offices;
- (c) "magistrate" includes a deputy magistrate and a police magistrate and deputy police magistrate within the meaning of the *Criminal Code* (Canada). R.S.O. 1937, c. 133, s. 1. R.S.C. 1927, c. 36.

2.—(1) The Lieutenant-Governor in Council may appoint magistrates and deputy magistrates. R.S.O. 1937, c. 133, s. 2 (1); 1941, c. 28, s. 1 (1). Appoint-
ment.

(2) Where the council of a city having a population of not less than 100,000 by resolution declares that it is desirable that a woman should be appointed a magistrate or deputy magistrate for the city, the Lieutenant-Governor in Council may appoint a woman to be a magistrate or deputy magistrate accordingly and where there are more magistrates than one for the city the appointment may be in addition to any magistrate then in office or to fill an existing vacancy among the magistrates. R.S.O. 1937, c. 133, s. 2 (2). Appoint-
ment of
female
magistrates.

3. Every magistrate and deputy magistrate shall cease to hold office upon attaining the age of 70 years, provided that every magistrate and deputy magistrate holding office on the 1st day of July, 1941, shall cease to hold office upon attaining the age of 75 years. 1941, c. 28, s. 2 *part*. Retirement.

4.—(1) Every deputy magistrate shall hold office during pleasure. Tenure of
office of
deputy
magistrates.

(2) Every magistrate shall hold office for two years after his appointment and thenceforth may be removed from office by the Lieutenant-Governor in Council for misbehaviour, or for incapacity or inability to perform his duties properly on account of old age, ill health or any other cause if, Tenure of
office of
magistrates.

- (a) the circumstances respecting the misbehaviour, incompetency or inability are first inquired into; and

- (b) such magistrate is given reasonable notice of the time and place appointed for the inquiry, and is afforded an opportunity by himself or his counsel of being heard thereat and of cross-examining the witnesses and adducing evidence on his own behalf.

Order to be
laid before
Assembly.

(3) If a magistrate is removed from office for any of such reasons, the Order in Council providing for the removal, and all reports, evidence and correspondence relating thereto shall be laid before the Assembly within the first 15 days of the next ensuing session.

Appointment
of judge
to inquire.

(4) The Lieutenant-Governor in Council may, for the purpose of making inquiry into the circumstances respecting misbehaviour, inability or incapacity of a magistrate, appoint one or more of the judges of the Supreme Court to make such inquiry and to report thereon, and any judge or judges so appointed shall have all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*. 1941, c. 28, s. 2 *part*.

Rev. Stat.,
c. 308.

Appointment
where over
70.

5.—(1) Where a person has ceased to hold office as a magistrate or deputy magistrate by reason of having attained the age of 70 years, the Lieutenant-Governor in Council may, notwithstanding anything in this Act, appoint him as a magistrate or deputy magistrate to hold office during pleasure at a salary or other remuneration not greater than that received immediately prior to retirement. 1941, c. 28, s. 4, *part*; 1950, c. 41, s. 2.

Powers.

(2) Every person appointed as a magistrate or deputy magistrate under this section shall have all the powers of a magistrate.

Retirement
at 75.

(3) Any person appointed as a magistrate or deputy magistrate under this section shall in any event cease to hold office upon attaining the age of 75 years. 1941, c. 28, s. 4, *part*.

Super-
annuation.

Rev. Stat.,
c. 317.

6. Where a magistrate whose salary is paid by a named city and who is not entitled to any superannuation allowance under *The Public Service Act* attains the age of 70 years, or in the case of a magistrate holding office on the 1st day of July, 1941, the age of 75 years, the council of the city may by by-law provide for the payment to such magistrate during his lifetime, of an annual sum by way of superannuation allowance. R.S.O. 1937, c. 133, s. 13; 1941, c. 28, s. 3.

Designation.

7.—(1) On the recommendation of the Attorney-General, the Lieutenant-Governor in Council may designate and define

any number of magisterial districts. R.S.O. 1937, c. 133, s. 3.

(2) The Attorney-General may designate any magistrate as ^{Senior} senior magistrate for a magisterial district. R.S.O. 1937, c. 133, ^{magistrate.} s. 4.

8.—(1) Every magistrate shall have jurisdiction to act at ^{Jurisdiction.} any place within Ontario, but the Order in Council appointing a magistrate may assign the magistrate to any magisterial district or part thereof. R.S.O. 1937, c. 133, s. 5.

(2) Notwithstanding the provisions of the Order in Council appointing a magistrate, the Attorney-General may, from ^{Territorial} time to time, direct any magistrate to act in any magisterial ^{direction} district or part thereof. R.S.O. 1937, c. 133, s. 6. ^{to act.}

9.—(1) Every magistrate before acting shall take the follow- ^{Oaths to} ing oath of office: ^{be taken by} ^{magistrate}

I *A.B.* of the.....of.....in the County
(or District) of....., do
swear that I will well and truly serve our Sovereign Lord King
George (*or the reigning Sovereign for the time being*) in the office of
magistrate (*or deputy magistrate, as the case may be*), and I will do
right to all manner of people according to law, without fear or
favour, affection or ill-will. So help me God.
Sworn, etc. *A.B.*

and also the oath of allegiance as required by *The Public* ^{Rev. Stat.,} ^{c. 311.}
Officers Act.

(2) The oath of office and oath of allegiance shall forthwith ^{Oaths to be} be delivered to the Inspector and shall be filed in his office. ^{filed with} ^{Inspector.}
R.S.O. 1937, c. 133, s. 7.

10.—(1) Every magistrate shall be *ex officio* a justice of the ^{Magistrates} peace. ^{are justices} ^{of the peace.}

(2) A magistrate sitting as such or as a justice of the peace, ^{Powers of} shall have power to do alone whatever is authorized to be done ^{magistrate.} by two or more justices of the peace. R.S.O. 1937, c. 133, s. 8.

11.—(1) A magistrate shall not act as agent, solicitor or ^{Prohibition} counsel in any cause, matter, prosecution or proceeding before ^{as to} a magistrate or justice of the peace, and no partner or clerk ^{practising in} of a magistrate shall act as agent, solicitor or counsel in any ^{magistrates'} proceeding before him. ^{courts.}

(2) Unless otherwise provided by Order in Council, a ^{Not to} magistrate shall not practise any profession or actively engage ^{engage in} in any business, trade or occupation, but shall devote his whole ^{any other} time to the performance of his duties as magistrate. R.S.O. ^{occupation} 1937, c. 133, s. 9. ^{without} ^{permission.}

Returns. **12.** Every magistrate shall make such returns to the Inspector, the clerk of the peace and other municipal or provincial officers as the regulations may direct. R.S.O. 1937, c. 133, s. 10.

Judges of juvenile courts to be magistrates. **13.** Every judge and deputy judge of a juvenile court shall be *ex officio* a magistrate, but shall only act as such when directed by the Attorney-General. R.S.O. 1937, c. 133, s. 11.

Salaries. **14.**—(1) Every magistrate shall be paid such salary as may be fixed by the Lieutenant-Governor in Council. R.S.O. 1937, c. 133, s. 14 (1); 1939, c. 47, s. 18.

Payment monthly. (2) The salary of every magistrate shall be paid monthly and shall be apportionable to the date of death of the magistrate, or of his vacating his office. R.S.O. 1937, c. 133, s. 14 (2).

Salaries and travelling expenses, how payable. **15.**—(1) The salary and travelling expenses of every magistrate shall be payable out of such sums as may be appropriated by the Legislature for the payment of salaries of magistrates, provided that the Lieutenant-Governor in Council may by the order appointing any magistrate, direct that in lieu thereof the salary of the magistrate shall be paid by any city to which the magistrate is assigned. R.S.O. 1937, c. 133, s. 15 (1).

Payment of expenses. (2) Except in the case of a magistrate whose salary is directed to be paid by a city, every magistrate shall, from the total amount of the moneys coming into his hands in fines and fees which would otherwise accrue to the treasurer of a municipality, deduct and pay such clerical, stationery, rent and other expenses of his court and office as are approved by the Inspector, and shall pay two-fifths of the balance of such moneys to the Treasurer of Ontario. 1938, c. 19, s. 2.

Power to hold court in cities or towns, etc. **16.** A magistrate may sit or hold his court in any city, town or village, and in such other places as may be necessary. R.S.O. 1937, c. 133, s. 16.

Use of courtroom. **17.** A magistrate shall have the right to use any courtroom or town hall, but not so as to interfere with the ordinary use of the courtroom or town hall for other courts or other purposes for which the same is maintained. R.S.O. 1937, c. 133, s. 17, *amended*.

In provisional judicial districts. **18.** In provisional judicial districts the Lieutenant-Governor in Council may authorize the purchase, erection or rental of a suitable building or part of a building for the office of the magistrate. R.S.O. 1937, c. 133, s. 18 (2).

19. The forms and stationery used by magistrates shall be as prescribed by the Inspector. R.S.O. 1937, c. 133, s. 19. Forms and stationery.

20. Notwithstanding anything in this Act, the Lieutenant-Governor in Council may direct that any city to which a magistrate is assigned shall provide a suitable office, furniture, equipment, stationery, clerical assistance and other accommodation for the magistrate in accordance with the regulations. R.S.O. 1937, c. 133, s. 20. Exceptions as to cities providing forms, etc.

21. All accounts relating to salaries and expenses shall be audited as provided in *The Administration of Justice Expenses Act*. R.S.O. 1937, c. 133, s. 21. Audit of accounts. Rev. Stat., c. 5.

22.—(1) Notwithstanding anything in this Act, the Lieutenant-Governor in Council may appoint four magistrates for the City of Toronto, and when deemed necessary, additional magistrates. R.S.O. 1937, c. 133, s. 22. Magistrates, Toronto.

(2) One of the magistrates for the City of Toronto may be designated senior magistrate. R.S.O. 1937, c. 133, s. 23. Senior magistrate, Toronto.

23.—(1) The board of commissioners of police of any city having a population of not less than 50,000 may appoint one or more official interpreters to act in all cases coming before any magistrate of the city in which the services of an interpreter may be required, and any such interpreter may be paid such salary or other remuneration as may be fixed by the board, and such salary or remuneration shall be paid by the board out of moneys which shall be appropriated for that purpose by the council of the city. Appointment of interpreters in cities.

(2) Any magistrate may employ an interpreter in any case in which the services of an interpreter may be required. R.S.O. 1937, c. 133, s. 12. Employment of interpreters.

24.—(1) The Lieutenant-Governor in Council may make regulations, Regulations.

- (a) fixing the period and manner in which fines and fees payable to the Treasurer of Ontario or any municipality entitled to any fines under this or any other Act, shall be paid over by magistrates;
- (b) providing for the inspection of the books, accounts and offices of magistrates;
- (c) defining the powers and duties of the Inspector;
- (d) providing for the appointment or employment of stenographic reporters to take down evidence before magistrates;

- (e) defining the classes of cases in which stenographic reporters may be employed and the terms and conditions of such employment;
- (f) fixing the fees and remuneration of stenographic reporters;
- (g) providing for the remuneration of a stenographic reporter by the municipal corporation or by the parties to any proceeding before the magistrate as part of the costs in the case or partly by one method and partly by the other, and where the remuneration is made payable by the municipal corporation, providing for the allowance of a charge for stenographic reporting as part of the costs in any case in which a stenographic report of the proceedings has been taken;
- (h) prescribing the returns to be made by magistrates;
- (i) providing for the appointment of clerical and other assistants of a magistrate and prescribing the duties and fixing the salary or other remuneration of such assistants;
- (j) prescribing the equipment, arrangement and furnishings of magistrates' offices, or any office connected with the administration of justice by magistrates;
- (k) prescribing the powers, duties and office hours of magistrates;
- (l) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Regulations,
general or
particular.

Rev. Stat.,
c. 379.

(2) Any such regulation may be general or particular in its application and may provide for the imposing of penalties for a breach of the regulations and the recovery of such penalties under *The Summary Convictions Act*, or in such other manner as the Lieutenant-Governor in Council may prescribe. R.S.O. 1937, c. 133, s. 24.

CHAPTER 220

The Magistrates' Jurisdiction Act

1. Where jurisdiction is given to any justice or justices, magistrate or deputy magistrate, judge or deputy judge of a juvenile court under any statute of Ontario for conducting any inquiry or the hearing, trial or disposition of any matter arising under any statute of Ontario, the Lieutenant-Governor in Council may, within his jurisdiction, designate and name any such justice or justices, magistrate or deputy magistrate, judge or deputy judge of a juvenile court, to conduct any such inquiry, and hear, determine, try and dispose of any such matter under any statute of Ontario, and may confer exclusive or joint or general jurisdiction upon justices, magistrates, deputy magistrates, and judges or deputy judges of juvenile courts, or any one or more of them, to conduct such inquiry and hear, determine, try and dispose of any such matter. Designating magistrates and juvenile court judges to hear cases under provincial statutes.

R.S.O. 1937, c. 134, s. 1.

CHAPTER 221

The Marine Insurance Act

INTERPRETATION

1. In this Act, unless the context otherwise requires,

**Expressions
interpreted.**

- (a) "action" includes counterclaim and set-off;
- (b) "freight" includes the profit derivable by a ship-owner from the employment of his ship to carry his own goods or movables, as well as freight payable by a third party, but does not include passage-money;
- (c) "movables" means any movable tangible property, other than the ship, and includes money, valuable securities, and other documents;
- (d) "policy" means a marine policy. 1946, c. 51, s. 1.

2. A contract of marine insurance is a contract whereby the insurer undertakes to indemnify the assured, in manner and to the extent thereby agreed, against marine losses, that is to say, the losses incident to marine adventure. 1946, c. 51, s. 1.

**Marine
insurance
defined.**

3.—(1) A contract of marine insurance may, by its express terms or by usage of trade, be extended so as to protect the assured against losses on inland waters or on any land risk which may be incidental to any sea voyage.

**Mixed sea
and land
risks.**

(2) Where a ship in course of building, or the launch of a ship, or any adventure analogous to a marine adventure, is covered by a policy in the form of a marine policy, the provisions of this Act, in so far as applicable, shall apply thereto; but, except as by this section provided, nothing in this Act shall alter or affect any rule of law applicable to any contract of insurance other than a contract of marine insurance as by this Act defined. 1946, c. 51, s. 3.

4.—(1) Subject to the provisions of this Act, every lawful marine adventure may be the subject of a contract of marine insurance.

**Marine
adventures
and mari-
time perils
defined.**

- (2) In particular there is a marine adventure where,

- (a) any ship, goods, or other movables are exposed to

maritime perils. Such property is in this Act referred to as "insurable property";

- (b) the earning or acquisition of any freight, passage-money, commission, profit, or other pecuniary benefit, or the security for any advances, loan, or disbursements, is endangered by the exposure of insurable property to maritime perils;
- (c) any liability to a third party may be incurred by the owner of, or other person interested in or responsible for, insurable property by reason of maritime perils.

(3) "Maritime perils" means the perils consequent on or incidental to the navigation of the sea, that is to say, perils of the seas, fire, war perils, pirates, rovers, thieves, captures, seizures, restraints, and detentions of princes and peoples, jettisons, barratry, and any other perils, either of the like kind or which may be designated by the policy. 1946, c. 51, s. 4.

INSURABLE INTEREST

Avoidance of
wagering or
gaming
contracts.

5.—(1) Every contract of marine insurance by way of gaming or wagering is void.

(2) A contract of marine insurance is deemed to be a gaming or wagering contract,

- (a) where the assured has not an insurable interest as defined by this Act, and the contract is entered into with no expectation of acquiring such an interest; or
- (b) where the policy is made "interest or no interest," or "without further proof of interest than the policy itself," or "without benefit of salvage to the insurer," or subject to any other like term;

Provided that where there is no possibility of salvage a policy may be effected without benefit of salvage to the insurer. 1946, c. 51, s. 5.

Insurable
interest
defined.

6.—(1) Subject to the provisions of this Act, every person has an insurable interest who is interested in a marine adventure.

(2) In particular a person is interested in a marine adventure where he stands in any legal or equitable relation to the adventure or to any insurable property at risk therein, in consequence of which he may benefit by the safety or due arrival of insurable property, or may be prejudiced by its loss or by damage thereto or by the detention thereof, or may incur liability in respect thereof. 1946, c. 51, s. 6.

7.—(1) The assured must be interested in the subject-matter insured at the time of the loss though he need not be interested when the insurance is effected; When interest must attach.

Provided that where the subject-matter is insured "lost or not lost," the assured may recover although he may not have acquired his interest until after the loss, unless at the time of effecting the contract of insurance the assured was aware of the loss and the insurer was not.

(2) Where the assured has no interest at the time of the loss, he cannot acquire interest by any act or election after he is aware of the loss. 1946, c. 51, s. 7.

8.—(1) A defeasible interest is insurable, as also is a contingent interest. Defeasible or contingent interests.

(2) In particular, where the buyer of goods has insured them, he has an insurable interest, notwithstanding that he might, at his election, have rejected the goods, or have treated them as at the seller's risk, by reason of the latter's delay in making delivery or otherwise. 1946, c. 51, s. 8.

9. A partial interest of any nature is insurable. 1946, c. 51, s. 9. Partial interest.

10.—(1) The insurer under a contract of marine insurance has an insurable interest in his risk and may re-insure in respect of it. Re-insurance.

(2) Unless the policy otherwise provides, the original assured has no right or interest in respect of such re-insurance. 1946, c. 51, s. 10.

11. The lender of money on bottomry or respondentia has an insurable interest in respect of the loan. 1946, c. 51, s. 11. Bottomry.

12. The master or any member of the crew of a ship has an insurable interest in respect of his wages. 1946, c. 51, s. 12. Master's and seamen's wages.

13. In the case of advance freight, the person advancing the freight has an insurable interest, in so far as such freight is not repayable in case of loss. 1946, c. 51, s. 13. Advance freight.

14. The assured has an insurable interest in the charges of any insurance which he may effect. 1946, c. 51, s. 14. Charges of insurance.

15.—(1) Where the subject-matter insured is mortgaged, the mortgagor has an insurable interest in the full value thereof, and the mortgagee has an insurable interest in respect of any sum due or to become due under the mortgage. Quantum of interest.

(2) A mortgagee, consignee, or other person having an interest in the subject-matter insured may insure on behalf and for the benefit of other persons interested as well as for his own benefit.

(3) The owner of insurable property has an insurable interest in respect of the full value thereof, notwithstanding that some third person may have agreed, or be liable, to indemnify him in case of loss. 1946, c. 51, s. 15.

Assignment
of interest.

16. Where the assured assigns or otherwise parts with his interest in the subject-matter insured, he does not thereby transfer to the assignee his rights under the contract of insurance, unless there be an express or implied agreement with the assignee to that effect; but the provisions of this section do not affect a transmission of interest by operation of law. 1946, c. 51, s. 16.

INSURABLE VALUE

Measure of
insurable
value.

17. Subject to any express provision or valuation in the policy, the insurable value of the subject-matter insured must be ascertained as follows:

- (a) In insurance on ship, the insurable value is the value, at the commencement of the risk, of the ship, including her outfit, provisions and stores for the officers and crew, money advanced for seamen's wages, and other disbursements, if any, incurred to make the ship fit for the voyage or adventure contemplated by the policy, plus the charges of insurance upon the whole.

The insurable value, in the case of a steamship, includes also the machinery, boilers, and coals, oils, and engine stores if owned by the assured, and, in the case of a ship engaged in a special trade, the ordinary fittings requisite for that trade;

- (b) In insurance on freight, whether paid in advance or otherwise, the insurable value is the gross amount of the freight at the risk of the assured, plus the charges of insurance;
- (c) In insurance on goods or merchandise, the insurable value is the prime cost of the property insured, plus the expenses of and incidental to shipping and the charges of insurance upon the whole;
- (d) In insurance on any other subject-matter, the insurable value is the amount at the risk of the assured when the policy attaches, plus the charges of insurance. 1946, c. 51, s. 17.

DISCLOSURE AND REPRESENTATIONS

18. A contract of marine insurance is a contract based upon the utmost good faith, and if the utmost good faith be not observed by either party the contract may be avoided by the other party. 1946, c. 51, s. 18. Insurance is uberrimae fidei.

19.—(1) Subject to the provisions of this section, the assured must disclose to the insurer before the contract is concluded every material circumstance which is known to the assured, and the assured is deemed to know every circumstance which in the ordinary course of business ought to be known by him. If the assured fails to make such disclosure the insurer may avoid the contract. Disclosure by assured.

(2) Every circumstance is material which would influence the judgment of a prudent insurer in fixing the premium or determining whether he will take the risk.

(3) In the absence of inquiry the following circumstances need not be disclosed, namely,

- (a) any circumstance which diminishes the risk;
- (b) any circumstance which is known or presumed to be known to the insurer. The insurer is presumed to know matters of common notoriety or knowledge and matters which an insurer in the ordinary course of his business, as such, ought to know;
- (c) any circumstance as to which information is waived by the insurer;
- (d) any circumstance which it is superfluous to disclose by reason of any express or implied warranty.

(4) Whether any particular circumstance which is not disclosed be material or not is in each case a question of fact.

(5) The term "circumstance" includes any communication made to or information received by the assured. 1946, c. 51, s. 19.

20. Subject to the provisions of the preceding section as to circumstances which need not be disclosed, where an insurance is effected for the assured by an agent, the agent must disclose to the insurer, Disclosure by agent effecting insurance.

- (a) every material circumstance which is known to himself, and an agent to insure is deemed to know every circumstance which in the ordinary course of business ought to be known by or to have been communicated to him; and

- (b) every material circumstance which the assured is bound to disclose, unless it comes to his knowledge too late to communicate it to the agent. 1946, c. 51, s. 20.

Representations pending negotiation of contract.

21.—(1) Every material representation made by the assured or his agent to the insurer during the negotiations for the contract, and before the contract is concluded, must be true. If it be untrue the insurer may avoid the contract.

(2) A representation is material which would influence the judgment of a prudent insurer in fixing the premium or determining whether he will take the risk.

(3) A representation may be either a representation as to a matter of fact or as to a matter of expectation or belief.

(4) A representation as to a matter of fact is true if it be substantially correct, that is to say, if the difference between what is represented and what is actually correct would not be considered material by a prudent insurer.

(5) A representation as to a matter of expectation or belief is true if it be made in good faith.

(6) A representation may be withdrawn or corrected before the contract is concluded.

(7) Whether a particular representation be material or not is in each case a question of fact. 1946, c. 51, s. 21.

When contract is deemed to be concluded.

22. A contract of marine insurance is deemed to be concluded when the proposal of the assured is accepted by the insurer, whether the policy be then issued or not; and for the purpose of showing when the proposal was accepted, reference may be made to the slip or covering note or other customary memorandum of the contract. 1946, c. 51, s. 22.

THE POLICY

Contract must be embodied in policy.

23. A contract of marine insurance is inadmissible in evidence unless it is embodied in a marine policy in accordance with this Act. The policy may be executed and issued either at the time when the contract is concluded or afterwards. 1946, c. 51, s. 23.

What policy must specify.

24. A marine policy must specify,

- (a) the name of the assured or of some person who effects the insurance on his behalf;
- (b) the subject-matter insured and the risk insured against;

- (c) the voyage or period of time, or both, as the case may be, covered by the insurance;
- (d) the sum or sums insured;
- (e) the name or names of the insurers. 1946, c. 51, s. 24.

25.—(1) A marine policy must be signed by or on behalf of the insurer, provided that in the case of a corporation the corporate seal may be sufficient, but nothing in this section shall be construed as requiring the subscription of a corporation to be under seal. Signature of insurer.

(2) Where a policy is subscribed by or on behalf of two or more insurers, each subscription, unless the contrary be expressed, constitutes a distinct contract with the assured. 1946, c. 51, s. 25.

26. Where the contract is to insure the subject-matter at and from, or from one place to another or others, the policy is called a "voyage policy," and where the contract is to insure the subject-matter for a definite period of time the policy is called a "time policy." [A contract for both voyage and time may be included in the same policy. 1946, c. 51, s. 26. Voyage and time policies.]

27.—(1) The subject-matter insured must be designated in a marine policy with reasonable certainty. Designation of subject-matter.

(2) The nature and extent of the interest of the assured in the subject-matter insured need not be specified in the policy.

(3) Where the policy designates the subject-matter insured in general terms, it shall be construed to apply to the interest intended by the assured to be covered.

(4) In the application of this section regard shall be had to any usage regulating the designation of the subject-matter insured. 1946, c. 51, s. 27.

28.—(1) A policy may be either valued or unvalued. Valued policy.

(2) A valued policy is a policy which specifies the agreed value of the subject-matter insured.

(3) Subject to the provisions of this Act, and in the absence of fraud, the value fixed by the policy is, as between the insurer and assured, conclusive of the insurable value of the subject intended to be insured, whether the loss be total or partial.

(4) Unless the policy otherwise provides, the value fixed by the policy is not conclusive for the purpose of determining whether there has been a constructive total loss. 1946, c. 51, s. 28.

Unvalued
policy.

29. An unvalued policy is a policy which does not specify the value of the subject-matter insured, but, subject to the limit of the sum insured, leaves the insurable value to be subsequently ascertained in the manner hereinbefore specified. 1946, c. 51, s. 29.

Floating
policy by
ship or
ships.

30.—(1) A floating policy is a policy which describes the insurance in general terms and leaves the name of the ship or ships and other particulars to be defined by subsequent declaration.

(2) The subsequent declaration or declarations may be made by endorsement on the policy or in other customary manner.

(3) Unless the policy otherwise provides, the declarations must be made in the order of dispatch or shipment. They must, in the case of goods, comprise all consignments within the terms of the policy, and the value of the goods or other property must be honestly stated, but an omission or erroneous declaration may be rectified even after loss or arrival, provided the omission or declaration was made in good faith.

(4) Unless the policy otherwise provides, where a declaration of value is not made until after notice of loss or arrival, the policy must be treated as an unvalued policy as regards the subject-matter of that declaration. 1946, c. 51, s. 30.

Construc-
tion of terms
in policy.

31.—(1) A policy may be in the form in the Schedule.

(2) Subject to the provisions of this Act, and unless the context of the policy otherwise requires, the terms and expressions mentioned in the Schedule shall be construed as having the scope and meaning in the Schedule assigned to them. 1946, c. 51, s. 31.

Premium to
be arranged.

32.—(1) Where an insurance is effected at a premium to be arranged, and no arrangement is made, a reasonable premium is payable.

(2) Where an insurance is effected on the terms that an additional premium is to be arranged in a given event, and that event happens but no arrangement is made, then a reasonable additional premium is payable. 1946, c. 51, s. 32.

DOUBLE INSURANCE

Double
insurance.

33.—(1) Where two or more policies are effected by or on behalf of the assured on the same adventure and interest or any part thereof, and the sums insured exceed the indemnity allowed by this Act, the assured is said to be over-insured by double insurance.

- (2) Where the assured is over-insured by double insurance,
- (a) the assured, unless the policy otherwise provides, may claim payment from the insurers in such order as he may think fit, provided that he is not entitled to receive any sum in excess of the indemnity allowed by this Act;
 - (b) where the policy under which the assured claims is a valued policy, the assured must give credit as against the valuation for any sum received by him under any other policy without regard to the actual value of the subject-matter insured;
 - (c) where the policy under which the assured claims is an unvalued policy, he must give credit, as against the full insurable value, for any sum received by him under any other policy;
 - (d) where the assured receives any sum in excess of the indemnity allowed by this Act, he is deemed to hold such sum in trust for the insurers, according to their right of contribution among themselves. 1946, c. 51, s. 33.

WARRANTIES, ETC.

34.—(1) A warranty, in the following sections relating to warranties, means a promissory warranty, that is to say, a warranty by which the assured undertakes that some particular thing shall or shall not be done, or that some condition shall be fulfilled, or whereby he affirms or negatives the existence of a particular state of facts. Nature of warranty.

(2) A warranty may be express or implied.

(3) A warranty, as above defined, is a condition which must be exactly complied with, whether it be material to the risk or not. If it be not so complied with, then, subject to any express provision in the policy, the insurer is discharged from liability as from the date of the breach of warranty, but without prejudice to any liability incurred by him before that date. 1946, c. 51, s. 34.

35.—(1) Non-compliance with a warranty is excused when, by reason of a change of circumstances, the warranty ceases to be applicable to the circumstances of the contract, or when compliance with the warranty is rendered unlawful by any subsequent law. When breach of warranty excused.

(2) Where a warranty is broken, the assured cannot avail himself of the defence that the breach has been remedied and the warranty complied with before loss.

(3) A breach of warranty may be waived by the insurer. 1946, c. 51, s. 35.

Express warranties.

36.—(1) An express warranty may be in any form of words from which the intention to warrant is to be inferred.

(2) An express warranty must be included in or written upon the policy, or must be contained in some document incorporated by reference into the policy.

(3) An express warranty does not exclude an implied warranty, unless it be inconsistent therewith. 1946, c. 51, s. 36.

Warranty of neutrality.

37.—(1) Where insurable property, whether ship or goods, is expressly warranted "neutral," there is an implied condition that the property shall have a neutral character at the commencement of the risk, and that, so far as the assured can control the matter, its neutral character shall be preserved during the risk.

(2) Where a ship is expressly warranted "neutral," there is also an implied condition that, so far as the assured can control the matter, she shall be properly documented, that is to say, that she shall carry the necessary papers to establish her neutrality, and that she shall not falsify or suppress her papers or use simulated papers. If any loss occurs through breach of this condition, the insurer may avoid the contract. 1946, c. 51, s. 37.

No implied warranty of nationality.

38. There is no implied warranty as to the nationality of a ship, or that her nationality shall not be changed during the risk. 1946, c. 51, s. 38.

Warranty of good safety.

39. Where the subject-matter insured is warranted "well" or "in good safety" on a particular day, it is sufficient if it be safe at any time during that day. 1946, c. 51, s. 39.

Warranty of seaworthiness of ship.

40.—(1) In the voyage policy there is an implied warranty that at the commencement of the voyage the ship shall be seaworthy for the purpose of the particular adventure insured.

(2) Where the policy attaches while the ship is in port, there is also an implied warranty that she shall at the commencement of the risk be reasonably fit to encounter the ordinary perils of the port.

(3) Where the policy relates to a voyage which is performed in different stages, during which the ship requires different kinds of or further preparation or equipment, there is an implied warranty that at the commencement of each stage

the ship is seaworthy in respect of such preparation or equipment for the purposes of that stage.

(4) A ship is deemed to be seaworthy when she is reasonably fit in all respects to encounter the ordinary perils of the seas of the adventure insured.

(5) In a time policy there is no implied warranty that the ship shall be seaworthy at any stage of the adventure, but where, with the privity of the assured, the ship is sent to sea in an unseaworthy state, the insurer is not liable for any loss attributable to unseaworthiness. 1946, c. 51, s. 40.

41.—(1) In a policy on goods or other movables there is no implied warranty that the goods or movables are seaworthy. No implied warranty that goods are seaworthy.

(2) In a voyage policy on goods or other movables there is an implied warranty that at the commencement of the voyage the ship is not only seaworthy as a ship, but also that she is reasonably fit to carry the goods or other movables to the destination contemplated by the policy. 1946, c. 51, s. 41.

42. There is an implied warranty that the adventure insured is a lawful one, and that, so far as the assured can control the matter, the adventure shall be carried out in a lawful manner. 1946, c. 51, s. 42. Warranty of legality.

THE VOYAGE

43.—(1) Where the subject-matter is insured by a voyage policy "at and from" or "from" a particular place, it is not necessary that the ship should be at that place when the contract is concluded, but there is an implied condition that the adventure shall be commenced within a reasonable time, and that if the adventure be not so commenced the insurer may avoid the contract. Implied condition as to commencement of risk.

(2) The implied condition may be negatived by showing that the delay was caused by circumstances known to the insurer before the contract was concluded, or by showing that he waived the condition. 1946, c. 51, s. 43.

44. Where the place of departure is specified by the policy, and the ship, instead of sailing from that place, sails from any other place, the risk does not attach. 1946, c. 51, s. 44. Alteration of port of departure.

45. Where the destination is specified in the policy, and the ship, instead of sailing for that destination, sails for any other destination, the risk does not attach. 1946, c. 51, s. 45. Sailing for different destination.

Change of
voyage.

46.—(1) Where, after the commencement of the risk, the destination of the ship is voluntarily changed from the destination contemplated by the policy, there is said to be a change of voyage.

(2) Unless the policy otherwise provides, where there is a change of voyage, the insurer is discharged from liability as from the time of change, that is to say, as from the time when the determination to change it is manifested; and it is immaterial that the ship may not in fact have left the course of voyage contemplated by the policy when the loss occurs. 1946, c. 51, s. 46.

Deviation.

47.—(1) Where a ship, without lawful excuse, deviates from the voyage contemplated by the policy, the insurer is discharged from liability as from the time of deviation, and it is immaterial that the ship may have regained her route before any loss occurs.

(2) There is a deviation from the voyage contemplated by the policy,

(a) where the course of the voyage is specially designated by the policy and that course is departed from; or

(b) where the course of the voyage is not specifically designated by the policy, but the usual and customary course is departed from.

(3) The intention to deviate is immaterial; there must be a deviation in fact to discharge the insurer from his liability under the contract. 1946, c. 51, s. 47.

Several ports
of discharge.

48.—(1) Where several ports of discharge are specified by the policy, the ship may proceed to all or any of them, but, in the absence of any usage or sufficient cause to the contrary, she must proceed to them, or such of them as she goes to, in the order designated by the policy. If she does not there is a deviation.

(2) Where the policy is to "ports of discharge," within a given area, which are not named, the ship must, in the absence of any usage or sufficient cause to the contrary, proceed to them, or such of them as she goes to, in their geographical order. If she does not there is a deviation. 1946, c. 51, s. 48.

Delay in
voyage.

49. In the case of a voyage policy, the adventure insured must be prosecuted throughout its course with reasonable dispatch, and, if without lawful excuse it is not so prosecuted, the insurer is discharged from liability as from the time when the delay became unreasonable. 1946, c. 51, s. 49.

50.—(1) Deviation or delay in prosecuting the voyage contemplated by the policy is excused, Excuses for deviation or delay.

- (a) where authorized by any special term in the policy; or
- (b) where caused by circumstances beyond the control of the master and his employer; or
- (c) where reasonably necessary in order to comply with an express or implied warranty; or
- (d) where reasonably necessary for the safety of the ship or subject-matter insured; or
- (e) for the purpose of saving human life, or aiding a ship in distress where human life may be in danger; or
- (f) where reasonably necessary for the purpose of obtaining medical or surgical aid for any person on board the ship; or
- (g) where caused by the barratrous conduct of the master or crew, if barratry be one of the perils insured against.

(2) When the cause excusing the deviation or delay ceases to operate, the ship must resume her course and prosecute her voyage with reasonable dispatch. 1946, c. 51, s. 50.

ASSIGNMENT OF POLICY

51.—(1) A marine policy is assignable unless it contains terms expressly prohibiting assignment. It may be assigned either before or after loss. When and how policy is assignable.

(2) Where a marine policy has been assigned so as to pass the beneficial interest in such policy, the assignee of the policy is entitled to sue thereon in his own name; and the defendant is entitled to make any defence arising out of the contract which he would have been entitled to make if the action had been brought in the name of the person by or on behalf of whom the policy was effected.

(3) A marine policy may be assigned by endorsement thereon or in other customary manner. 1946, c. 51, s. 51.

52. Where the assured has parted with or lost his interest in the subject-matter insured, and has not, before or at the time of so doing, expressly or impliedly agreed to assign the policy, any subsequent assignment of the policy is inoperative; Assured who has no interest cannot assign.

Provided that nothing in this section affects the assignment of a policy after loss. 1946, c. 51, s. 52.

THE PREMIUM

When
premium
payable.

53. Unless otherwise agreed, the duty of the assured or his agent to pay the premium, and the duty of the insurer to issue the policy to the assured or his agent, are concurrent conditions, and the insurer is not bound to issue the policy until payment or tender of the premium. 1946, c. 51, s. 53.

Policy
effected
through
broker.

54.—(1) Unless otherwise agreed, where a marine policy is effected on behalf of the assured by a broker, the broker is directly responsible to the insurer for the premium, and the insurer is directly responsible to the assured for the amount which may be payable in respect of losses or in respect of returnable premium.

(2) Unless otherwise agreed, the broker has, as against the assured, a lien upon the policy for the amount of the premium and his charges in respect of effecting the policy; and, where he has dealt with the person who employs him as a principal, he has also a lien on the policy in respect of any balance on any insurance account which may be due to him from such person, unless when the debt was incurred he had reason to believe that such person was only an agent. 1946, c. 51, s. 54.

Effect of
receipt on
policy.

55. Where a marine policy effected on behalf of the assured by a broker acknowledges the receipt of the premium, such acknowledgment is, in the absence of fraud, conclusive as between the insurer and the assured, but not as between the insurer and broker. 1946, c. 51, s. 55.

LOSS AND ABANDONMENT

Included and
excluded
losses.

56.—(1) Subject to the provisions of this Act, and unless the policy otherwise provides, the insurer is liable for any loss proximately caused by a peril insured against, but, subject as aforesaid, he is not liable for any loss which is not proximately caused by a peril insured against.

(2) In particular,

- (a) the insurer is not liable for any loss attributable to the wilful misconduct of the assured, but, unless the policy otherwise provides, he is liable for any loss proximately caused by a peril insured against, even though the loss would not have happened but for the misconduct or negligence of the master or crew;
- (b) unless the policy otherwise provides, the insurer on ship or goods is not liable for any loss proximately caused by delay, although the delay be caused by a peril insured against;

- (c) unless the policy otherwise provides, the insurer is not liable for ordinary wear and tear, ordinary leakage and breakage, inherent vice or nature of the subject-matter insured, or for any loss proximately caused by rats or vermin, or for any injury to machinery not proximately caused by maritime perils. 1946, c. 51, s. 56.

57.—(1) A loss may be either total or partial. Any loss ^{Partial and total loss.} other than a total loss, as hereinafter defined, is a partial loss.

(2) A total loss may be either an actual total loss or a constructive total loss.

(3) Unless a different intention appears from the terms of the policy, an insurance against total loss includes a constructive as well as an actual total loss.

(4) Where the assured brings an action for a total loss and the evidence proves only a partial loss, he may, unless the policy otherwise provides, recover for a partial loss.

(5) Where goods reach their destination in specie, but by reason of obliteration of marks, or otherwise, they are incapable of identification, the loss, if any, is partial and not total. 1946, c. 51, s. 57.

58.—(1) Where the subject-matter insured is destroyed, ^{Actual total loss.} or so damaged as to cease to be a thing of the kind insured, or where the assured is irretrievably deprived thereof, there is an actual total loss.

(2) In the case of an actual total loss no notice of abandonment need be given. 1946, c. 51, s. 58.

59. Where the ship concerned in the adventure is missing, ^{Missing ship.} and after the lapse of a reasonable time no news of her has been received, an actual total loss may be presumed. 1946, c. 51, s. 59.

60. Where, by a peril insured against, the voyage is interrupted at an intermediate port or place under such circumstances as, apart from any special stipulation in the contract of affreightment, to justify the master in landing and reshipping the goods or other movables, or in transshipping them, and sending them on to their destination, the liability of the insurer continues, notwithstanding the landing or transshipment. 1946, c. 51, s. 60. ^{Effect of transshipment, etc.}

61.—(1) Subject to any express provision in the policy, ^{Constructive total loss defined.} there is a constructive total loss where the subject-matter

insured is reasonably abandoned on account of its actual total loss appearing to be unavoidable, or because it could not be preserved from actual total loss without an expenditure which would exceed its value when the expenditure had been incurred.

- (2) In particular, there is a constructive total loss,
 - (a) where the assured is deprived of the possession of his ship or goods by a peril insured against, and
 - (i) it is unlikely that he can recover the ship or goods, as the case may be, or
 - (ii) the cost of recovering the ship or goods, as the case may be, would exceed their value when recovered, or
 - (b) in the case of damage to a ship, where she is so damaged by a peril insured against that the cost of repairing the damage would exceed the value of the ship when repaired.

In estimating the cost of repairs, no deduction is to be made in respect of general average contributions to those repairs payable by other interests, but account is to be taken of the expense of future salvage operations and of any future general average contributions to which the ship would be liable if repaired; or

- (c) in the case of damage to goods, where the cost of repairing the damage and forwarding the goods to their destination would exceed their value on arrival. 1946, c. 51, s. 61.

Effect of
constructive
total loss.

62. Where there is a constructive total loss, the assured may either treat the loss as a partial loss or abandon the subject-matter insured to the insurer and treat the loss as if it were an actual total loss. 1946, c. 51, s. 62.

Notice of
abandon-
ment.

63.—(1) Subject to the provisions of this section, where the assured elects to abandon the subject-matter insured to the insurer, he must give notice of abandonment. If he fails to do so the loss can only be treated as a partial loss.

(2) Notice of abandonment may be given in writing or by word of mouth, or partly in writing and partly by word of mouth, and may be given in any terms which indicate the intention of the assured to abandon his insured interest in the subject-matter insured unconditionally to the insurer.

(3) Notice of abandonment must be given with reasonable diligence after the receipt of reliable information of the loss,

but where the information is of a doubtful character the assured is entitled to a reasonable time to make inquiry.

(4) Where notice of abandonment is properly given, the rights of the assured are not prejudiced by the fact that the insurer refuses to accept the abandonment.

(5) The acceptance of an abandonment may be either express or implied from the conduct of the insurer. The mere silence of the insurer after notice is not an acceptance.

(6) Where notice of abandonment is accepted the abandonment is irrevocable. The acceptance of the notice conclusively admits liability for the loss and the sufficiency of the notice.

(7) Notice of abandonment is unnecessary where, at the time when the assured receives information of the loss, there would be no possibility of benefit to the insurer if notice were given to him.

(8) Notice of abandonment may be waived by the insurer.

(9) Where an insurer has re-insured his risk, no notice of abandonment need be given by him. 1946, c. 51, s. 63.

64.—(1) Where there is a valid abandonment, the insurer is entitled to take over the interest of the assured in whatever may remain of the subject-matter insured and all proprietary rights incidental thereto. Effect of abandonment.

(2) Upon the abandonment of a ship, the insurer thereof is entitled to any freight in course of being earned, and which is earned by her subsequent to the casualty causing the loss, less the expenses of earning it incurred after the casualty; and, where the ship is carrying the owner's goods, the insurer is entitled to a reasonable remuneration for the carriage of them subsequent to the casualty causing the loss. 1946, c. 51, s. 64.

PARTIAL LOSSES (INCLUDING SALVAGE AND GENERAL AVERAGE AND PARTICULAR CHARGES)

65.—(1) A particular average loss is a partial loss of the subject-matter insured, caused by a peril insured against, and which is not a general average loss. Particular average loss.

(2) Expenses incurred by or on behalf of the assured for the safety or preservation of the subject-matter insured, other than general average and salvage charges, are called particular charges. Particular charges are not included in particular average. 1946, c. 51, s. 65.

Salvage
charges.

66.—(1) Subject to any express provision in the policy, salvage charges incurred in preventing a loss by perils insured against may be recovered as a loss by those perils.

(2) “Salvage charges” means the charges recoverable under maritime law by a salvor independently of contract. They do not include the expenses of services in the nature of salvage rendered by the assured or his agents, or any person employed for hire by them, for the purpose of averting a peril insured against. Such expenses, where properly incurred, may be recovered as particular charges or as a general average loss, according to the circumstances under which they were incurred. 1946, c. 51, s. 66.

General
average loss.

67.—(1) A general average loss is a loss caused by or directly consequential on a general average act. It includes a general average expenditure as well as a general average sacrifice.

(2) There is a general average act where any extraordinary sacrifice or expenditure is voluntarily and reasonably made or incurred in time of peril for the purpose of preserving the property imperilled in the common adventure.

(3) Where there is a general average loss, the party on whom it falls is entitled, subject to the conditions imposed by maritime law, to a rateable contribution from the other parties interested, and such contribution is called a general average contribution.

(4) Subject to any express provision in the policy, where the assured has incurred a general average expenditure, he may recover from the insurer in respect of the proportion of the loss which falls upon him; and, in the case of a general average sacrifice, he may recover from the insurer in respect of the whole loss without having enforced his right of contribution from the other parties liable to contribute.

(5) Subject to any express provision in the policy, where the assured has paid, or is liable to pay, a general average contribution in respect of the subject insured, he may recover therefor from the insurer.

(6) In the absence of express stipulation, the insurer is not liable for any general average loss or contribution where the loss was not incurred for the purpose of avoiding, or in connection with the avoidance of, a peril insured against.

(7) Where ship, freight, and cargo, or any two of those interests, are owned by the same assured, the liability of the insurer in respect of general average losses or contributions is to be determined as if those subjects were owned by different persons. 1946, c. 51, s. 67.

MEASURE OF INDEMNITY

68.—(1) The sum which the assured can recover in respect of a loss on a policy by which he is insured, in the case of an unvalued policy to the full extent of the insurable value, or in the case of a valued policy to the full extent of the value fixed by the policy, is called the measure of indemnity. Extent of liability of insurer for loss.

(2) Where there is a loss recoverable under the policy, the insurer, or each insurer if there be more than one, is liable for such proportion of the measure of indemnity as the amount of his subscription bears to the value fixed by the policy in the case of a valued policy, or to the insurable value in the case of an unvalued policy. 1946, c. 51, s. 68.

69. Subject to the provisions of this Act and to any express provision in the policy, where there is a total loss of the subject-matter insured, Total loss.

- (a) if the policy be a valued policy, the measure of indemnity is the sum fixed by the policy;
- (b) if the policy be an unvalued policy, the measure of indemnity is the insurable value of the subject-matter insured. 1946, c. 51, s. 69.

70. Where a ship is damaged, but is not totally lost, the measure of indemnity, subject to any express provision in the policy, is as follows: Partial loss of ship.

- (1) Where the ship has been repaired, the assured is entitled to the reasonable cost of the repairs, less the customary deductions, but not exceeding the sum insured in respect of any one casualty;
- (2) Where the ship has been only partially repaired, the assured is entitled to the reasonable cost of such repairs, computed as above, and also to be indemnified for the reasonable depreciation, if any, arising from the unrepaired damage, provided that the aggregate amount shall not exceed the cost of repairing the whole damage, computed as above;
- (3) Where the ship has not been repaired and has not been sold in her damaged state during the risk, the assured is entitled to be indemnified for the reasonable depreciation arising from the unrepaired damage, but not exceeding the reasonable cost of repairing such damage, computed as above. 1946, c. 51, s. 70.

71. Subject to any express provision in the policy, where there is a partial loss of freight, the measure of indemnity is Partial loss of freight.

such proportion of the sum fixed by the policy in the case of a valued policy, or of the insurable value in the case of an unvalued policy, as the proportion of freight lost by the assured bears to the whole freight at the risk of the assured under the policy. 1946, c. 51, s. 71.

Partial loss
of goods,
merchandise,
etc.

72. Where there is a partial loss of goods, merchandise, or other movables, the measure of indemnity, subject to any express provision in the policy, is as follows:

- (1) Where part of the goods, merchandise, or other movables insured by a valued policy is totally lost, the measure of indemnity is such proportion of the sum fixed by the policy as the insurable value of the part lost bears to the insurable value of the whole, ascertained as in the case of an unvalued policy;
- (2) Where part of the goods, merchandise, or other movables insured by an unvalued policy is totally lost, the measure of indemnity is the insurable value of the part lost, ascertained as in case of total loss;
- (3) Where the whole or any part of the goods or merchandise insured has been delivered damaged at its destination, the measure of indemnity is such proportion of the sum fixed by the policy in the case of a valued policy, or of the insurable value in the case of an unvalued policy, as the difference between the gross sound and damaged values at the place of arrival bears to the gross sound value;
- (4) "Gross value" means the wholesale price or, if there be no such price, the estimated value, with, in either case, freight, landing charges, and duty paid beforehand; provided that, in the case of goods or merchandise customarily sold in bond, the bonded price is deemed to be the gross value. "Gross proceeds" means the actual price obtained at a sale where all charges on sale are paid by the sellers. 1946, c. 51, s. 72.

Apportion-
ment of
valuation.

73.—(1) Where different species of property are insured under a single valuation, the valuation must be apportioned over the different species in proportion to their respective insurable values, as in the case of an unvalued policy. The insured value of any part of a species is such proportion of the total insured value of the same as the insurable value of the part bears to the insurable value of the whole, ascertained in both cases as provided by this Act.

(2) Where a valuation has to be apportioned and particulars of the prime cost of each separate species, quality, or description of goods cannot be ascertained, the division of the valuation may be made over the net arrived sound values of the different species, qualities, or descriptions of goods. 1946, c. 51, s. 73.

74.—(1) Subject to any express provision in the policy, where the assured has paid, or is liable for, any general average contribution, the measure of indemnity is the full amount of such contribution, if the subject-matter liable to contribution is insured for its full contributory value; but, if such subject-matter be not insured for its full contributory value, or if only part of it be insured, the indemnity payable by the insurer must be reduced in proportion to the under-insurance, and where there has been a particular average loss which constitutes a deduction from the contributory value, and for which the insurer is liable, that amount must be deducted from the insured value in order to ascertain what the insurer is liable to contribute.

General average contributions and salvage charges.

(2) Where the insurer is liable for salvage charges the extent of his liability must be determined on the like principle. 1946, c. 51, s. 74.

75. Where the assured has effected an insurance in express terms against any liability to a third party, the measure of indemnity, subject to any express provision in the policy, is the amount paid or payable by him to such third party in respect of such liability. 1946, c. 51, s. 75.

Liabilities to third parties.

76.—(1) Where there has been a loss in respect of any subject-matter not expressly provided for in the foregoing provisions of this Act, the measure of indemnity shall be ascertained, as nearly as may be, in accordance with those provisions, in so far as applicable to the particular case.

General provisions as to measure of indemnity.

(2) Nothing in the provisions of this Act relating to the measure of indemnity shall affect the rules relating to double insurance, or prohibit the insurer from disproving interest wholly or in part, or from showing that at the time of the loss the whole or any part of the subject-matter insured was not at risk under the policy. 1946, c. 51, s. 76.

77.—(1) Where the subject-matter insured is warranted free from particular average, the assured cannot recover for a loss of part, other than a loss incurred by a general average sacrifice, unless the contract contained in the policy be apportionable; but, if the contract be apportionable, the assured may recover for a total loss of any apportionable part.

Particular average warranties.

(2) Where the subject-matter insured is warranted free from particular average, either wholly or under a certain percentage, the insurer is nevertheless liable for salvage charges, and for particular charges and other expenses properly incurred pursuant to the provisions of the suing and labouring clause in order to avert a loss insured against.

(3) Unless the policy otherwise provides, where the subject-matter insured is warranted free from particular average under a specified percentage, a general average loss cannot be added to a particular average loss to make up the specified percentage.

(4) For the purpose of ascertaining whether the specified percentage has been reached, regard shall be had only to the actual loss suffered by the subject-matter insured. Particular charges and the expenses of and incidental to ascertaining and proving the loss must be excluded. 1946, c. 51, s. 77.

Successive
losses.

78.—(1) Unless the policy otherwise provides and subject to the provisions of this Act, the insurer is liable for successive losses, even though the total amount of such losses may exceed the sum insured.

(2) Where, under the same policy, a partial loss which has not been repaired or otherwise made good is followed by a total loss, the assured can only recover in respect of the total loss;

Provided that nothing in this section shall affect the liability of the insurer under the suing and labouring clause. 1946, c. 51, s. 78.

Suing and
labouring
clause.

79.—(1) Where the policy contains a suing and labouring clause, the engagement thereby entered into is deemed to be supplementary to the contract of insurance, and the assured may recover from the insurer any expenses properly incurred pursuant to the clause, notwithstanding that the insurer may have paid for a total loss, or that the subject-matter may have been warranted free from particular average, either wholly or under a certain percentage.

(2) General average losses and contributions and salvage charges as defined by this Act are not recoverable under the suing and labouring clause.

(3) Expenses incurred for the purpose of averting or diminishing any loss not covered by the policy are not recoverable under the suing and labouring clause.

(4) It is the duty of the assured and his agents in all cases to take such measures as may be reasonable for the purpose of averting or minimizing a loss. 1946, c. 51, s. 79.

RIGHTS OF INSURER ON PAYMENT

80.—(1) Where the insurer pays for a total loss, either of the whole or, in the case of goods, of any apportionable part of the subject-matter insured, he thereupon becomes entitled to take over the interest of the assured in whatever may remain of the subject-matter so paid for, and he is thereby subrogated to all the rights and remedies of the assured in and in respect of that subject-matter as from the time of the casualty causing the loss. Right of subrogation.

(2) Subject to the foregoing provisions, where the insurer pays for a partial loss, he acquires no title to the subject-matter insured, or such part of it as may remain, but he is thereupon subrogated to all rights and remedies of the assured in and in respect of the subject-matter insured as from the time of the casualty causing the loss, in so far as the assured has been indemnified, according to this Act, by such payment for the loss. 1946, c. 51, s. 80.

81.—(1) Where the assured is over-insured by double insurance, each insurer is bound, as between himself and the other insurers, to contribute rateably to the loss in proportion to the amount for which he is liable under his contract. Right of contribution.

(2) If any insurer pays more than his proportion of the loss, he is entitled to maintain an action for contribution against the other insurers, and is entitled to the like remedies as a surety who has paid more than his proportion of the debt. 1946, c. 51, s. 81.

82. Where the assured is insured for an amount less than the insurable value or, in the case of a valued policy, for an amount less than the policy valuation, he is deemed to be his own insurer in respect of the uninsured balance. 1946, c. 51, s. 82. Effect of under-insurance.

RETURN OF PREMIUM

83. Where the premium, or a proportionate part thereof, is by this Act declared to be returnable, Enforcement of return.

- (a) if already paid, it may be recovered by the assured from the insurer; and
- (b) if unpaid, it may be retained by the assured or his agent. 1946, c. 51, s. 83.

84. Where the policy contains a stipulation for the return of the premium, or a proportionate part thereof, on the happening of a certain event, and that event happens, the pre- Return by agreement.

mium, or, as the case may be, the proportionate part thereof, is thereupon returnable to the assured. 1946, c. 51, s. 84.

Return for
failure of
considera-
tion.

85.—(1) Where the consideration for the payment of the premium totally fails, and there has been no fraud or illegality on the part of the assured or his agents, the premium is thereupon returnable to the assured.

(2) Where the consideration for the payment of the premium is apportionable and there is a total failure of any apportionable part of the consideration, a proportionate part of the premium is, under the like conditions, thereupon returnable to the assured.

(3) In particular,

- (a) where the policy is void, or is avoided by the insurer as from the commencement of the risk, the premium is returnable, provided that there has been no fraud or illegality on the part of the assured; but if the risk is not apportionable, and has once attached, the premium is not returnable;
- (b) where the subject-matter insured, or part thereof, has never been imperilled, the premium, or, as the case may be, a proportionate part thereof, is returnable;

Provided that where the subject-matter has been insured "lost or not lost" and has arrived in safety at the time when the contract is concluded, the premium is not returnable unless at such time the insurer knew of the safe arrival;

- (c) where the assured has no insurable interest throughout the currency of the risk, the premium is returnable, provided that this rule does not apply to a policy effected by way of gaming or wagering;
- (d) where the assured has a defeasible interest which is terminated during the currency of the risk, the premium is not returnable;
- (e) where the assured has over-insured under an unvalued policy, a proportionate part of the premium is returnable;
- (f) subject to the foregoing provisions, where the assured has over-insured by double insurance, a proportionate part of the several premiums is returnable;

Provided that, if the policies are effected at different times, and any earlier policy has at any time borne the entire risk, or if a claim has been paid on the policy in respect of the full sum insured thereby,

no premium is returnable in respect of that policy, and when the double insurance is effected knowingly by the assured no premium is returnable. 1946, c. 51, s. 85.

MUTUAL INSURANCE

86.—(1) Where two or more persons mutually agree to insure each other against marine losses there is said to be a mutual insurance. Modification of Act in case of mutual insurance.

(2) The provisions of this Act relating to the premium do not apply to mutual insurance, but a guarantee, or such other arrangement as may be agreed upon, may be substituted for the premium.

(3) The provisions of this Act, in so far as they may be modified by the agreement of the parties, may in the case of mutual insurance be modified by the terms of the policies issued by the association or by the rules and regulations of the association.

(4) Subject to the exceptions mentioned in this section, the provisions of this Act apply to a mutual insurance. 1946, c. 51, s. 86.

SUPPLEMENTAL

87. Where a contract of marine insurance is in good faith effected by one person on behalf of another, the person on whose behalf it is effected may ratify the contract even after he is aware of a loss. 1946, c. 51, s. 87. Ratification by assured.

88.—(1) Where any right, duty, or liability would arise under a contract of marine insurance by implication of law, it may be negatived or varied by express agreement, or by usage, if the usage be such as to bind both parties to the contract. Implied obligations varied by agreement or usage.

(2) The provisions of this section extend to any right, duty, or liability declared by this Act which may be lawfully modified by agreement. 1946, c. 51, s. 88.

89. Where by this Act any reference is made to reasonable time, reasonable premium, or reasonable diligence, the question what is reasonable is a question of fact. 1946, c. 51, s. 89. Reasonable time, etc., a question of fact.

90. The rules of the common law, including the law merchant, save in so far as they are inconsistent with the express provisions of this Act, shall continue to apply to contracts of marine insurance. 1946, c. 51, s. 90. Rules of common law saved.

SCHEDULE

(Section 31.)

FORM OF POLICY

Be it known that.....as well in.....own name as for and in the name and names of all and every other person or persons to whom the same doth, may, or shall appertain, in part or in all doth make assurance and cause.....and them, and every of them, to be insured lost or not lost, at and from..... Upon any kind of goods and merchandises, and also upon the body, tackle, apparel, ordnance, munition, artillery, boat, and other furniture, of and in the good ship or vessel called the.....whereof is master under God, for this present voyage,.....or whosoever else shall go for master in the said ship, or by whatsoever other name or names the said ship, or the master thereof, is or shall be named or called; beginning the adventure upon the said goods and merchandises from the loading thereof aboard the said ship,.....upon the said ship, etc.,.....and so shall continue and endure, during her abode there, upon the said ship, etc. And further, until the said ship, with all her ordnance, tackle, apparel, etc., and goods and merchandises whatsoever shall be arrived atupon the said ship, etc., until she hath moored at anchor twenty-four hours in good safety; and upon the goods and merchandises, until the same be there discharged and safely landed. And it shall be lawful for the said ship, etc., in this voyage, to proceed and sail to and touch and stay at any ports or places whatsoever.....without prejudice to this insurance. The said ship, etc., goods and merchandises, etc., for so much as concerns the assured by agreement between the assured and assurers in this policy, are and shall be valued at.....

(Sue and labour clause.)

(Waiver clause.)

Touching the adventures and perils which we, the assurers, are contented to bear and do take upon us in this voyage: they are of the seas, men-of-war, fire, enemies, pirates, rovers, thieves, jettisons, letters of mart and countermart, surprisals, takings at sea, arrests, restraints, and detainerments of all kings, princes, and people, of what nation, condition, or quality soever, barratry of the master and mariners, and of all other perils, losses, and misfortunes, that have or shall come to the hurt, detriment, or damage of the said goods and merchandises, and ship, etc., or any part thereof. And in case of any loss or misfortune it shall be lawful to the assured, their factors, servants, and assigns, to sue, labour, and travel for, in and about the defence, safeguards, and recovery of the said goods and merchandises, and ship, etc., or any part thereof, without prejudice to this insurance; to the charges whereof we, the assurers, will contribute each one according to the rate and quantity of his sum herein assured. And it is especially declared and agreed that no acts of the insurer or insured in recovering, saving, or preserving the property insured shall be considered as a waiver, or acceptance of abandonment. And it is agreed by us, the insurers, that this writing or policy of assurance shall be of as much force and effect as the surest writing or policy of assurance heretofore made in Lombard Street, or in the Royal Exchange, or elsewhere in London. And so we, the assurers, are contented, and do hereby promise and bind ourselves, each one for his own part, our heirs, executors, and goods to the assured, their executors, administrators, and assigns, for the true performance of the premises, confessing ourselves paid the consideration due unto us for this assurance by the assured, at and after the rate of

In witness whereof we, the assurers, have subscribed our names and sums assured in

(Memorandum.)

N.B.—Corn, fish, salt, fruit, flour, and seed are warranted free from average, unless general, or the ship be stranded; sugar, tobacco, hemp, flax, hides and skins are warranted free from average, under five pounds per cent; and all other goods, also the ship and freight, are warranted

free from average, under three pounds per cent, unless general, or the ship be stranded.

RULES FOR CONSTRUCTION OF POLICY

The following are the rules referred to by this Act for the construction of a policy in the above or other like form, where the context does not otherwise require:

1. Where the subject-matter is insured "lost or not lost" and the loss has occurred before the contract is concluded, the risk attaches, unless ^{Lost or not lost.} at such time the assured was aware of the loss, and the insurer was not.

2. Where the subject-matter is insured "from" a particular place, the risk does not attach until the ship starts on the voyage insured. ^{From.}

3. (a) Where a ship is insured "at and from" a particular place, and she is at that place in good safety when the contract is concluded, the risk attaches immediately. ^{At and from.}

(b) If she be not at that place when the contract is concluded, the risk attaches as soon as she arrives there in good safety, and, unless the policy otherwise provides, it is immaterial that she is covered by another policy for a specified time after arrival. ^(Ship.)

(c) Where chartered freight is insured "at and from" a particular place, and the ship is at that place in good safety when the contract is concluded, the risk attaches immediately. If she be not there when the contract is concluded, the risk attaches as soon as she arrives there in good safety. ^(Freight.)

(d) Where freight, other than chartered freight, is payable without special conditions and is insured "at and from" a particular place, the risk attaches pro rata as the goods or merchandise are shipped; provided that if there be cargo in readiness which belongs to the ship-owner, or which some other person has contracted with him to ship, the risk attaches as soon as the ship is ready to receive such cargo.

4. Where goods or other movables are insured "from the loading thereof," the risk does not attach until such goods or movables are actually on board, and the insurer is not liable for them while in transit from the shore to the ship. ^{From the loading thereof.}

5. Where the risk on goods or other movables continues until they are "safely landed," they must be landed in the customary manner and within a reasonable time after arrival at the port of discharge, and if they are not so landed the risk ceases. ^{Safely landed.}

6. In the absence of any further licence or usage, the liberty to touch and stay "at any port or place whatsoever" does not authorize the ship to depart from the course of her voyage from the port of departure to the port of destination. ^{Touch and stay.}

7. The term "perils of the sea" refers only to fortuitous accidents or casualties of the seas. It does not include the ordinary action of the winds and waves. ^{Perils of the seas.}

8. The term "pirates" includes passengers who mutiny and rioters who attack the ship from the shore. ^{Pirates.}

9. The term "thieves" does not cover clandestine theft or a theft committed by any one of the ship's company, whether crew or passengers. ^{Thieves.}

10. The term "arrests, etc., of kings, princes, and people" refers to political or executive acts, and does not include a loss caused by riot or by ordinary judicial process. ^{Restraint of princes.}

11. The term "barratry" includes every wrongful act wilfully committed by the master or crew to the prejudice of the owner, or, as the case may be, the charterer. ^{Barratry.}

All other perils.

12. The term "all other perils" includes only perils similar in kind to the perils specifically mentioned in the policy.

Average unless general.

13. The term "average unless general" means a partial loss of the subject-matter insured other than a general average loss, and does not include "particular charges."

Stranded.

14. Where the ship has stranded, the insurer is liable for the excepted losses, although the loss is not attributable to the stranding, provided that when the stranding takes place the risk has attached and, if the policy be on goods, that the damaged goods are on board.

Ship.

15. The term "ship" includes the hull, materials and outfit, stores and provisions for the officers and crew, and, in the case of vessels engaged in a special trade, the ordinary fittings requisite for the trade, and also, in the case of a steamship, the machinery, boilers, and coals, oils, and engine stores, if owned by the assured.

Freight.

16. The term "freight" includes the profit derivable by a ship-owner from the employment of his ship to carry his own goods or movables, as well as freight payable by a third party, but does not include passage-money.

Goods.

17. The term "goods" means goods in the nature of merchandise, and does not include personal effects or provisions and stores for use on board.

In the absence of any usage to the contrary, deck cargo and living animals must be insured specifically, and not under the general denomination of goods. 1946, c. 51, Sched.

CHAPTER 222

The Marriage Act

1. In this Act,

- (a) "church" includes chapel, meeting-house or place set aside for religious worship; Interpretation.
- (b) "issuer" means a person authorized under this Act to issue marriage licences;
- (c) "judge" means a judge or junior judge of a county or district court;
- (d) "licence" means a marriage licence issued under this Act;
- (e) "magistrate" means a magistrate appointed under *The Magistrates Act*. 1950, c. 42, s. 1. Rev. Stat., c. 219.

2. The administration of this Act shall be under the direction of the Provincial Secretary. 1950, c. 42, s. 2. Administration.

3. With the consent of the Provincial Secretary, the Deputy Provincial Secretary may have, use and exercise any power, right or authority conferred by this Act on the Provincial Secretary. 1950, c. 42, s. 3. Delegation of Minister's powers.

4.—(1) No marriage may be solemnized except under the authority of a licence, special permit or publication of banns. Authority to marry.

(2) The Lieutenant-Governor or his deputy may authorize by licence (Form 1) the solemnization of marriage. Licence.

(3) The Provincial Secretary may authorize by special permit (Form 2) the solemnization of marriage. 1950, c. 42, s. 4. Special permit.

5.—(1) Any person who is eighteen years of age or more may obtain a licence or a special permit or be married under authority of publication of banns, provided no lawful cause exists to hinder the solemnization. Who may marry, residents;

(2) No licence shall be issued where neither of the parties to the intended marriage has, for fifteen days immediately preceding the date of the application for a licence, had his usual place of abode within Ontario, unless the Provincial Secretary, in writing, authorizes the issue thereof. 1950, c. 42, s. 5. non-residents.

Persons
mentally
ill, etc.

6. No person shall issue a licence or special permit to or solemnize the marriage of any person who is mentally ill or mentally defective, or who is under the influence of intoxicating liquor or narcotic drugs. 1950, c. 42, s. 6.

Consent to
marriage
under
eighteen,
father;

7.—(1) No person shall,

(a) issue a licence or special permit to; or

(b) solemnize, under the authority of publication of banns, the marriage of,

any person under the age of eighteen years unless the consent in writing of the father is obtained.

mother;

(2) Where the father is dead, or is living apart from the mother and such person and is not maintaining or contributing to the support of such person, the consent in writing of the mother shall be obtained.

guardian.

(3) Where a guardian has been appointed, his consent in writing only shall be obtained.

Exceptions.

(4) Notwithstanding subsections 1 to 3, a licence may be issued to a person under the age of eighteen years if the issuer is satisfied that both parents are dead and no guardian has been appointed or that the person whose consent is required is declared mentally ill or is confined in a hospital for mentally ill or mentally defective persons, or is not resident in Ontario or cannot be found.

Deposit of
consent.

(5) Any consent required by this section shall be deposited with the person issuing the licence or special permit or solemnizing the marriage, as the case may be. 1950, c. 42, s. 7.

Person under
fourteen
years.

8. No person shall,

(a) issue a licence or special permit to; or

(b) solemnize, under the authority of publication of banns, the marriage of,

any person under the age of fourteen years unless section 7 is complied with and a certificate of a legally qualified medical practitioner, stating that the marriage is necessary to prevent illegitimacy of offspring, is deposited with the person issuing the licence or special permit or solemnizing the marriage. 1950, c. 42, s. 8.

Application
to dispense
with consent.

9.—(1) Where the person whose consent is required under section 7 unreasonably or arbitrarily withholds his consent or is by his actions not interested in the maintenance or well-being of the person in respect of whose marriage the consent is required, or where it is uncertain whose consent is required,

the person in respect of whose marriage consent is required may apply to a judge without the intervention of a next friend for an order under this section.

(2) The judge shall hear the application in a summary ^{Order.} manner and may make an order dispensing with the consent. 1950, c. 42, s. 9.

10. Notwithstanding anything in this Act, if the Provincial Secretary considers that circumstances justify the issue of a licence or a special permit in any particular case, he may, in his absolute discretion, authorize the issue of a licence or issue a special permit. 1950, c. 42, s. 10. ^{Discretionary power of Minister.}

11.—(1) A married person whose spouse is missing and who alleges, ^{Application for presumption of death.}

- (a) that his spouse has been continuously absent for at least seven years immediately preceding the application;
- (b) that his spouse has not been heard from or heard of during such period by the applicant or to the knowledge of the applicant by any other person; and
- (c) that the applicant has made reasonable inquiries and has no reason to believe that his spouse is living,

may apply to a judge for an order under this section.

(2) Upon being satisfied as to the truth of the matters ^{Order.} alleged, the judge may, in his discretion, make an order declaring that the spouse shall be presumed dead.

(3) Where an order has been obtained under this section, the person in whose favour the order was made may, subject to the provisions of this Act, obtain a licence or special permit or be married under the authority of publication of banns upon depositing a copy of the order with the person issuing the licence or special permit or solemnizing the marriage together with an affidavit (Form 3). ^{Effect of order.}

(4) Except for the purposes of subsection 3, the order ^{Idem.} shall have no effect. 1950, c. 42, s. 11.

12.—(1) No issuer shall issue a licence to a person whose previous marriage has been dissolved or annulled in Canada unless such person deposits with the issuer, ^{Divorced persons, in Canada}

- (a) a copy of the final decree or judgment or of the Act dissolving or annulling the marriage, certified by the proper officer; and
- (b) such other material as the issuer may require.

elsewhere.

(2) No issuer shall issue a licence to a person whose previous marriage has been dissolved or annulled elsewhere than in Canada, unless the authorization in writing of the Provincial Secretary is obtained upon the deposit of such material as he may require. 1950, c. 42, s. 12.

Prerequisite
to licence.

13.—(1) Before a licence is issued,

- (a) both parties to the intended marriage shall make an affidavit (Form 4); or
- (b) one of the parties shall make an affidavit (Form 4) and deposit with the issuer,
 - (i) a birth certificate of the other party, or
 - (ii) an affidavit by the other party or by some member of his family having personal knowledge of the facts, stating the age, date and place of birth of such other party; provided that where the affidavit is made by the other party to the intended marriage it shall be sufficient to state his age, date and place of birth, according to the best of his knowledge, information and belief.

Affidavit
on licence.

(2) The affidavit (Form 4) shall be endorsed on the licence. 1950, c. 42, s. 13.

Marriage
not to be
performed
within three
days of
date of
licence.

14. Where a marriage is to be solemnized under the authority of a licence it shall not take place earlier than the third day after the date of the issue of the licence, but the Provincial Secretary in his absolute discretion may authorize the solemnization of the marriage earlier than such third day. 1950, c. 42, s. 14.

Publication
of banns.

15.—(1) Where a marriage is to be solemnized under the authority of publication of banns, the intention to marry shall be proclaimed openly in an audible voice during divine service,

- (a) where the parties are in the habit of attending worship at the same church, being within Canada, at that church; or
- (b) where the parties are in the habit of attending worship in different churches, being within Canada, in each such church.

Method and
time of
publication.

(2) The banns shall be published according to the usage of the denomination, faith or creed of the church in which they are published and during divine Sunday service at least one week before the marriage.

(3) Where the usage of any denomination, faith or creed ^{Exception.} substitutes any other day as the usual and principal day of the week for the celebration of divine service the banns shall be published on such other day.

(4) The person or persons who publish banns shall complete ^{Proof of publication.} proof of publication (Form 5). 1950, c. 42, s. 15.

16. No marriage shall be solemnized under the authority ^{Idem.} of publication of banns unless proof of publication by the person or persons publishing the banns has been deposited with the person solemnizing the marriage. 1950, c. 42, s. 16.

17. Banns shall not be published, ^{Where banns not to be published.}

- (a) where either of the parties to the intended marriage has been married and the marriage has been dissolved or annulled; or
- (b) where neither of the parties has had his usual place of abode within Ontario for fifteen days immediately preceding the request for publication. 1950, c. 42, s. 17.

18. A marriage shall be solemnized only within the three ^{Time within which marriage to be solemnized.} months immediately following the issue of the licence or special permit, or the publication of banns, as the case may be. 1950, c. 42, s. 18.

19. Every marriage shall be solemnized in the presence of ^{Attendance of parties and witnesses.} the parties and at least two witnesses who shall affix their names as witnesses to the entry in the register made under section 26. 1950, c. 42, s. 19.

20. Every person who solemnizes a marriage shall, at the ^{Marriage certificate.} time of the marriage, if required by either of the parties thereto, give a certificate of the marriage specifying the names of the parties, the date of the marriage, the names of the witnesses, and whether the marriage was solemnized under the authority of a licence, special permit or publication of banns. 1950, c. 42, s. 20.

21.—(1) No person shall solemnize a marriage unless he is ^{Who may solemnize marriage.} a judge or a magistrate, or is registered under this section as a person authorized to solemnize marriage.

(2) Upon application the Provincial Secretary may, subject ^{Application for registration.} to subsection 3, register any person as a person authorized to solemnize marriage.

Who may be
registered.

(3) No person shall be registered unless it appears to the Provincial Secretary,

- (a) that the person has been ordained or appointed according to the rites and usages of the religious body to which he belongs, or is, by the rules of that religious body, deemed ordained or appointed;
- (b) that the person is duly recognized by the religious body to which he belongs as entitled to solemnize marriage according to its rites and usages;
- (c) that the religious body to which the person belongs is permanently established both as to the continuity of its existence and as to its rites and ceremonies; and
- (d) that the person is resident in Ontario or has his parish or pastoral charge in whole or in part in Ontario; provided that in the case of a person who is in Ontario temporarily and who, if resident in Ontario, might be registered under this section, the Provincial Secretary may register him as authorized to solemnize marriage during a period to be fixed by the Provincial Secretary.

Quakers.

(4) Notwithstanding subsection 1, every marriage solemnized according to the rites, usages and customs of the religious Society of Friends, commonly called Quakers, shall be valid and all the duties imposed by this Act upon a person solemnizing a marriage shall, with respect to such marriage, be performed by the clerk or secretary of the society or of the meeting at which the marriage is solemnized; but nothing herein shall require the marriage to be celebrated or solemnized by such clerk or secretary. 1950, c. 42, s. 21.

Register.

22.—(1) The Provincial Secretary shall keep a register of the name of every person registered as a person authorized to solemnize marriage, the date of such registration, and such other particulars as he may deem advisable.

Certificate
of registra-
tion.

(2) The Provincial Secretary may issue a certificate (Form 6) of registration under this section. 1950, c. 42, s. 22.

Cancellation
of registra-
tion.

23.—(1) Where it appears to the Provincial Secretary that any person registered as authorized to solemnize marriage has ceased to possess the qualifications entitling him to be so registered, or for any other cause, the Provincial Secretary may cancel such registration.

Notice of
change.

(2) Every religious body, members of which are registered under this Act, shall notify the Provincial Secretary of the name of every such member so registered who has died or has

ceased to reside in Ontario or has ceased to be associated with such religious body. 1950, c. 42, s. 23.

24. When a person is registered under this Act as authorized to solemnize marriage, and when any such registration is cancelled, the Provincial Secretary shall publish notice thereof in *The Ontario Gazette*. 1950, c. 42, s. 24. Publication of registration and cancellation.

25.—(1) A judge or magistrate may solemnize marriage under the authority of a licence or a special permit. Civil marriage.

(2) The marriage shall be solemnized in the judge's chambers or magistrate's office between the hours of nine o'clock in the morning and five o'clock in the afternoon. Place of solemnization.

(3) No particular form of ceremony shall be required except that in some part of the ceremony, in the presence of the judge or magistrate and witnesses, each of the parties shall declare: Form of ceremony.

I do solemnly declare that I do not know of any lawful impediment why I, AB, may not be joined in matrimony to CD,

and each of the parties shall say to the other:

I call upon these persons here present to witness that I, AB, do take thee, CD, to be my lawful wedded wife (*or* husband),

after which the judge or magistrate shall say:

I, EF, Judge (*or* Magistrate) of....., by virtue of the powers vested in me by *The Marriage Act*, do hereby pronounce you AB and CD to be husband and wife.

1950, c. 42, s. 25.

26. Every person shall immediately after he has solemnized a marriage, Entry in marriage register.

(a) where the marriage was solemnized in a church, enter in the church register kept for the purpose; or

(b) where the marriage was solemnized elsewhere than in a church, enter in a register kept by him for the purpose,

the particulars set out in Form 7, and the entry shall be authenticated by his signature and those of the parties and witnesses. 1950, c. 42, s. 26.

27.—(1) Every person registered as authorized to solemnize marriage who is in charge of a church that has not a marriage register shall apply to the clerk of the local municipality in which the church is situate for a marriage register for the church, and the clerk shall thereupon supply such register at the cost of the municipality. Church marriage registers.

Individual registers.

(2) Every person registered as authorized to solemnize marriage may apply to the clerk of the local municipality in which he resides for a marriage register for his own use, and the clerk shall thereupon supply such register at the cost of the municipality.

Unorganized territory.

(3) Where the church is situate or the person is resident in territory without municipal organization, the application referred to in subsection 1 or 2 shall be made to the Provincial Secretary who shall supply such register.

Judges and magistrates.

(4) The Provincial Secretary shall supply a marriage register to every judge and magistrate.

Property in registers.

(5) Every marriage register supplied under subsection 1, 2 or 3 shall be and remain the property of the religious body to which the person who applied for the register belongs, and every marriage register supplied under subsection 4 shall be and remain the property of the Crown. 1950, c. 42, s. 27.

Statement of marriage.

28.—(1) Before the solemnization of a marriage the parties to the marriage shall complete the particulars in the statement of marriage (Form 8) endorsed on the licence, special permit or certificate of publication of banns, and leave it with the person who will solemnize the marriage, and forthwith after the solemnization of the marriage,

(a) the parties to the marriage shall sign the statement;

(b) at least two witnesses to the marriage shall sign the statement; and

(c) the person who solemnized the marriage shall complete and sign the certificate on the statement.

To be forwarded to Registrar-General.

(2) Within two days after the day of the marriage, the person who solemnized the marriage shall forward the statement, duly completed in accordance with subsection 1, to the Registrar-General. 1950, c. 42, s. 28.

Ex officio issuers.

29.—(1) Marriage licences may be issued by the clerk of every city, town and village and by every magistrate in territory without municipal organization and every such clerk and magistrate shall be *ex officio* an issuer of marriage licences.

In townships and unorganized territory.

(2) Where it is deemed expedient for the public convenience the Lieutenant-Governor in Council may appoint as an issuer the clerk of any township, or any person resident in the Provisional County of Haliburton, or in a township adjacent thereto, or in a provisional judicial district. 1950, c. 42, s. 29.

30.—(1) An issuer may, with the approval in writing of the Provincial Secretary or of the head of the council of the municipality of which he is clerk, appoint in writing one or more deputies to act for him, and any such deputy while so acting shall have the power of the issuer appointing him. Deputy issuers.

(2) The issuer shall, upon appointing a deputy, forthwith transmit to the Provincial Secretary a notice of the appointment, and of the reason therefor, and of the name and official position of the person by whom the appointment has been approved, and the Provincial Secretary may at any time cancel the appointment. Notice of appointment of deputy.

(3) The deputy shall sign each licence issued by him with the name of the issuer as well as his own name in the following manner: Signature of licences by deputy.

AB, Issuer of Marriage Licences, per CD, Deputy Issuer.

1950, c. 42, s. 30.

31. Every licence under the hand and seal of the Lieutenant-Governor or his deputy and every special permit issued under the hand and seal of the Provincial Secretary or Deputy Provincial Secretary for the purpose of the solemnization of a marriage, shall be and remain valid notwithstanding that the Lieutenant-Governor or his deputy, or the Provincial Secretary or the Deputy Provincial Secretary, as the case may be, has ceased to hold office before the time of the issue of the licence or special permit. 1950, c. 42, s. 31. Validity of licences and special permits.

32. An issuer or the Provincial Secretary may require evidence to identify any applicant or to establish his status and may examine, under oath if required, any applicant or other person as to any matter pertaining to the issue of a licence or special permit. 1950, c. 42, s. 32. Evidence on applications.

33.—(1) Every issuer shall keep in his office a record of the serial number and the date of issue of every licence issued by him, and the names and addresses of the parties to the intended marriage. Record of licences.

(2) Any person shall be entitled, upon application, to have a search made respecting any licence issued within three months immediately preceding the date of application. 1950, c. 42, s. 33. Searches.

34. Where an issuer has reason to believe that any information set out in the affidavit (Form 4) is untrue, he shall not issue the licence unless, on the production of such further Untrue information.

evidence as he may require, he is satisfied as to the truth of the information. 1950, c. 42, s. 34.

Material to
be for-
warded, to
Provincial
Secretary;

35.—(1) Every issuer shall, immediately upon issuing a licence, forward to the Provincial Secretary such of the particulars contained in Form 4 as the Provincial Secretary may require.

to Registrar-
General.

(2) Every issuer immediately upon issuing a licence and every person registered as authorized to solemnize marriage upon publishing banns shall forward to the Registrar-General the following:

1. Any consent under section 7 or 8.
2. Any certificate of a medical practitioner under section 8.
3. Any judge's order under section 9.
4. Any judge's order under section 11.
5. Any affidavit (Form 3) under section 11.
6. The copy of any decree, judgment or Act dissolving or annulling a marriage and any other material under section 12.
7. Any affidavit as to age under section 13.
8. Any birth certificate under section 13.
9. Any documentary material obtained under section 32 or 34. 1950, c. 42, s. 35.

Oaths.

36. Issuers may administer oaths for the purposes of this Act. 1950, c. 42, s. 36.

Licence fee.

37.—(1) The fee for a licence shall be \$5 of which sum \$4 shall be remitted by the issuer to the Treasurer of Ontario.

Idem.

(2) The issuer shall retain \$1 from the licence fee for his own use.

Commuta-
tion of
clerk's fees.

(3) Where the issuer is the clerk of a municipality, the council of the municipality may commute the issuer's fees provided for in subsection 2 for a fixed sum, not exceeding \$2,000, payable annually by the municipality to the issuer, in which case the fees that would otherwise be retained by the issuer shall belong to the municipality.

Idem.

(4) When the council and the issuer do not agree upon the amount of the commutation, the amount may be fixed by a judge. 1950, c. 42, s. 37.

38. The fee for an authorization under subsection 2 of section 5 shall be \$5. 1950, c. 42, s. 38. Non-resident fee.

39. The costs of an application under section 11 shall be fixed by the judge and paid by the applicant. 1950, c. 42, s. 39. Costs on order of presumption of death.

40. The fee for the solemnization of a marriage by a judge or magistrate shall be \$10 which shall be remitted by the judge or magistrate, as the case may be, to the Treasurer of Ontario. 1950, c. 42, s. 40. Fee on marriage by judge or magistrate.

41. Every issuer and every other person having unissued licences in his possession, custody or control, shall, whenever required so to do, transmit them to the Provincial Secretary, and the property in all unissued licences shall be and remain in the Crown. 1950, c. 42, s. 41. Property in unissued licences.

42. No person who solemnizes or purports to solemnize a marriage shall be subject to any action or liability by reason of there having been any legal impediment to the marriage unless, at the time he performed the ceremony, he was aware of the impediment. 1950, c. 42, s. 42. Protection of persons solemnizing marriage in good faith.

43.—(1) Form 9 respecting the prohibited degrees of affinity and consanguinity shall be endorsed on the licence and on the proof of publication of banns. Prohibited degrees to be endorsed.

(2) If at any time changes are made in the law affecting the prohibited degrees of affinity and consanguinity, the Lieutenant-Governor in Council may direct changes to be made in Form 9 so as to make it conformable to the law for the time being. 1950, c. 42, s. 43. Changes in prohibited degrees.

44. If the parties to a marriage solemnized in good faith and intended to be in compliance with this Act are not under a legal disqualification to contract such marriage and after such solemnization have lived together and cohabited as man and wife, such marriage shall be deemed a valid marriage, notwithstanding that the person who solemnized the marriage was not authorized to solemnize marriage, and notwithstanding the absence of or any irregularity or insufficiency in the publication of banns or the issue of the licence or special permit. 1950, c. 42, s. 44. Marriages solemnized in good faith.

45. Every person who issues a licence, unless authorized so to do, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$100 and not more than \$300 or to imprisonment for a term of not more than six months, or to both. 1950, c. 42, s. 45. Issue of licence by unauthorized persons.

Marriage of
mental
defectives,
etc.

46. Every issuer who issues a licence and every person who solemnizes a marriage, knowing or having reason to believe that either of the parties to the intended marriage or to the marriage is mentally defective or mentally ill or is under the influence of intoxicating liquor or narcotic drugs, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$500 or to imprisonment for a term of not more than one year, or to both. 1950, c. 42, s. 46.

Marriage by
unauthorized
person.

47. Every person not registered as a person authorized to solemnize marriage who solemnizes or undertakes to solemnize any marriage, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$200 and not more than \$500 or to imprisonment for a term of not more than one year, or to both. 1950, c. 42, s. 47.

False
statements.

48. Every person who knowingly makes any false statement in any document required under this Act, in addition to any other penalty or punishment to which he may be liable, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$200 and not more than \$500 or to imprisonment for a term of not more than one year, or to both. 1950, c. 42, s. 48.

Where no
other
penalty
provided.

49. Every person who fails to comply with any provision of this Act for which no other penalty is provided shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100. 1950, c. 42, s. 49.

FORM 1

(Section 4 (2))

Serial No.

PROVINCE OF ONTARIO

By

Lieutenant-Governor of the Province of Ontario

I do hereby authorize by this licence the solemnization of marriage
between

..... of and
(name in full) (address)

.....
(name in full)

.....
(address)

..... of
(name in full) (address)

.....
(name in full)

.....
(address)

Provided always that, by reason of any Affinity, Consanguinity, Prior Marriage, or other Lawful Cause there is no Legal impediment in this behalf; but if otherwise, this licence shall be null and void to all intents and purposes whatsoever.

GIVEN under my Hand and Seal at the City of Toronto in the Province of Ontario this.....day of.....in the year of Our Lord.....and in the.....Year of His Majesty's Reign.

Issued this.....day of.....19.....

.....

Issuer of Marriage Licences at

1950, c. 42, Form 1.

FORM 2

(Section 4 (3))

SPECIAL PERMIT

I, _____
Provincial Secretary, hereby authorize the marriage of _____

I, _____
Provincial Secretary, hereby authorize the marriage of

of the of

of the of

and.....

of the of

GIVEN under my hand and seal at.....

this.....day of.....19.....

.....
(Provincial Secretary)

.....
(Provincial Secretary)

1950, c. 42, Form 2.

FORM 3

(Section 11 (3))

AFFIDAVIT REGARDING PRESUMPTION OF DEATH

Canada: }
 Province of Ontario, }
 To Wit: }

I,....., do solemnly swear that:

1. A marriage is intended to be solemnized in the Province of Ontario, between the following parties, of whom I am one, namely:

Intended Bridegroom (*name in full*).....

Residence (*address in full*).....

and

Intended Bride (*name in full*).....

Residence (*address in full*).....

2. I was married to.....(*name in full*)
 on (*date*)..... at (*place*).....

3. I have obtained from a judge of the County (*or District*) Court of the County (*or District*) of..... an order declaring that the said.....(*name in full*) shall be presumed dead.

4. I still have no reason to believe that the said..... is living.

5. I have given careful consideration to the question of the validity of the intended marriage between.....(the other party to the intended marriage) and myself and understand that and have advised.....(the other party to the intended marriage) that if.....(the person presumed dead) is not in fact dead at the time of the solemnization of the intended marriage, the said marriage shall be void.

6. I have shown.....(the other party to the intended marriage) a copy of the said order of presumption of death.

SWORN before me at the }
of..... }
 in the.....of... }
, this..... }
 day of..... }
 A.D. }

FORM 4
(Section 13)
AFFIDAVIT

MARRIAGE

I, of the in the Province of
(name in full of deponent)
I, of the in the Province of
(name in full of other deponent if both parties attend before Issuer) and
of make oath and say as follows:

That, for the space of fifteen days immediately preceding the date of this affidavit
(name in full of deponent or of the other contracting party or as the case may be)
ha had USUAL place of ABODE within the PROVINCE OF ONTARIO,
(my, his, her or our)
That I believe there is no affinity, consanguinity, prior marriage or other lawful cause or legal impediment to bar or hinder the solemnization of the
marriage, and
That the contents set forth herein are to the best of knowledge, information and belief, true in every particular:
(my or our)

Names in full			
Occupation		Age	Age
Condition in Life			
Religious Denomination	Bachelor, Widower or Divorcee		Spinster, Widow or Divorcee
Residence			
Place of Birth			
Intended Place of Marriage			in the County or District of

SWORN before me at the
of in the County or District of
this
day of
(write date in words not numerals)
19.....
.....
(signature of Issuer or Deputy Issuer, as case may be)
..... Issuer of Marriage Licences at
(signature of deponent or deponents, as case may be)

MARRIAGE

FORM 5

(Section 15 (4))

No.....

PROOF OF PUBLICATION

I duly published the banns of marriage between.....

.....
of the.....of.....

and.....

of the.....of.....

in.....Church in

the.....of.....

I further certify that I verily believe the said.....

.....
(and).....

(is or are) in the habit of attending worship at the said Church.

Dated this.....day of.....19.....

.....
(Signature).....
(Address)

1950, c. 42, Form 5.

FORM 6

(Section 22 (2))

No.....

CERTIFICATE OF REGISTRATION

as a person authorized to solemnize marriage

Pursuant to THE MARRIAGE ACT, I certify that.....

.....
of the.....of.....

in the.....of.....

is registered as a person authorized to solemnize marriage in the
PROVINCE OF ONTARIO.GIVEN under my hand at the Parliament Buildings at the City of
Toronto in the Province of Ontario this.....

day of.....19.....

(Deputy) Provincial Secretary.

1950, c. 42, Form 6.

FORM 7
(Section 26)

REGISTER OF MARRIAGES

BRIDEGROOM	
Name in full	
Age	
Residence when married	
Place of birth	
Bachelor, Widower or Divorcee (B., W. or D.)	
Occupation	
Religious Denomination of Bridegroom	
Names of Parents	
BRIDE	
Name in full	
Age	
Residence when married	
Place of birth	
Spinster, Widow or Divorcee (S., W. or D.)	
Religious Denomination of Bride	
Names of Parents	
Whether Married by Li- cence or Banns (L. or B.)	
SIGNATURES of Bridegroom	
of Bride	
of Witnesses	
	Residence.....
	Residence.....

I certify the above-named parties were married by me at.....
....., in the County of....., this.....day of.....
19.....

.....
(Signature)

.....
(Address)

FORM 8
(Section 28 (1))
STATEMENT OF MARRIAGE

1. Place of Marriage: The of in the of
 2. Date of Marriage: (month by name) (day) (year) of
 Broom (city, town, village or township) (county or territorial district) Banns ☐ (Place X in proper square)

(For use of Registrar-General only)

4.	Surname Given Names	17.	Bride
5. The of in the of (city, town, village or township) (county or territorial district)	Residence	18. The of in the of (city, town, village or township) (county or territorial district)	
6. (Bachelor, Widower, Divorcee)	Marital Status	19. (Spinster, Widow, Divorcee)	
7.	Religious Denomination	20.	
8. Age 9. Citizenship 10. Racial (in years)	Age Citizenship Racial Origin	21. Age 22. Citizenship 23. Racial (in years)	
11. (If in Canada, state Province; if foreign born state country)	Place of Birth	24. (If in Canada state Province; if foreign born state country)	
12.	Occupation	25.	
13.	Name of Father Surname Given Names	26.	
14.	Maiden Name of Mother Maiden Surname Given Names	27.	
15. (Province or Country)	Birthplace of Father	28. (Province or Country)	
16. (Province or Country)	Birthplace of Mother	29. (Province or Country)	

.....
(Signature of Bridegroom)

.....
(Signature of Witness)

.....
(Address of Witness)

I CERTIFY that I solemnized the marriage of the parties named in Items 4 and 17 on the date and at the place set out above.

*Registration No.

*Religious Denomination

*These items not to be completed by a judge or magistrate.

.....
(Signature of person solemnizing the marriage)

.....
(Post Office Address)

Date

FORM 9

(Section 48)

Degrees of affinity and consanguinity which, under the statutes in that behalf, bar the lawful solemnization of marriage.

A man may not marry his

1. Grandmother
2. Grandfather's wife
3. Wife's grandmother
4. Aunt
- †5. Uncle's wife
6. Wife's aunt
7. Mother
8. Step mother
9. Wife's mother
10. Daughter
11. Wife's daughter
12. Son's wife
13. Sister
14. Granddaughter
15. Grandson's wife
16. Wife's granddaughter
17. Niece
18. Nephew's wife
19. Wife's niece*
- †20. Brother's wife

A woman may not marry her

1. Grandfather
2. Grandmother's husband
3. Husband's grandfather
4. Uncle
5. Aunt's husband*
6. Husband's uncle
7. Father
8. Step father
9. Husband's father
10. Son
11. Husband's son
12. Daughter's husband
13. Brother
14. Grandson
15. Granddaughter's husband
16. Husband's grandson
17. Nephew
18. Niece's husband
- †19. Husband's nephew
- †20. Husband's brother

The relationships set forth in this table include all such relationships, whether by the whole or half blood, and whether legitimate or illegitimate.

*By the Revised Statutes of Canada, 1927, c. 127, s. 2 (1932, c. 10), it is enacted that "A marriage is not invalid merely because the woman is a sister of a deceased wife of the man, or a daughter of a sister or brother of a deceased wife of the man."

†By the Revised Statutes of Canada, 1927, c. 127, s. 3 (1932, c. 10), it is enacted that "A marriage is not invalid merely because the man is a brother of a deceased husband of the woman or a son of a brother or sister of a deceased husband of the woman."

1950, c. 42, Form 9.

CHAPTER 223

The Married Women's Property Act

1. In this Act,

Interpretation.

- (a) "contract" includes the acceptance of any trust or the office of executrix or administratrix;
- (b) "property" includes a thing in action. R.S.O. 1937, c. 209, s. 1.

2.—(1) Every married woman shall be capable of acquiring, holding and disposing by will or otherwise of any real or personal property as her separate property in the same manner as if she were a *feme sole* without the intervention of a trustee.

Capacity for holding, etc., property.

(2) Every woman married on or after the 1st day of July, 1884, shall also be entitled to have and hold and to dispose of as her separate property all real and personal property belonging to her at the time of marriage.

Right to hold real and personal property.

(3) Every married woman shall have and hold as her separate property, and may dispose of as such, the wages, earnings, money and property gained or acquired by her in any employment, trade or occupation in which she is engaged or which she carries on and in which her husband has no proprietary interest, or gained or acquired by her by the exercise of any literary, artistic or scientific skill. R.S.O. 1937, c. 209, s. 2.

Right to wages, etc.

3.—(1) Every married woman shall be capable of entering into and rendering herself liable in respect of and to the extent of her separate property on any contract, and of suing and being sued, either in contract or in tort or otherwise, in all respects as if she were a *feme sole*, and her husband need not be joined with her as plaintiff or defendant or be made a party to any action or other legal proceeding brought by or taken against her, and any damages or costs recovered by her in any such action or proceeding shall be her separate property and any damages or costs recovered against her in any such action or proceeding shall be payable out of her separate property and not otherwise.

Power to contract and to sue and be sued.

(2) An action shall not lie against a husband for a tort committed by his wife before or after marriage, nor shall he

Husband not responsible for wife's torts.

be joined in any action against his wife to recover damages for a tort committed by her.

Husband not
liable for
debts con-
tracted by
wife before
marriage.

(3) A husband shall not be liable for the debts of his wife incurred by her before marriage and shall not be liable on any contracts entered into by his wife before marriage. R.S.O. 1937, c. 209, s. 3.

Married
women's
contracts
after 13th
April, 1897.

4.—(1) Every contract entered into by a married woman on or after the 13th day of April, 1897, otherwise than as an agent,

(a) shall be deemed to be a contract entered into by her with respect to and bind her separate property whether she was or was not in fact possessed of or entitled to any separate property at the time when she entered into the contract;

(b) shall bind all separate property which she may at the time or thereafter possess or be entitled to; and

(c) shall also be enforceable by process of law against all property which she may thereafter while discover possess or be entitled to.

Restraint on
anticipation.

56-57 V.,
(Imp.),
c. 63, s. 1.

(2) Nothing in this section shall render available to satisfy any liability or obligation arising out of such contract any separate property which such married woman is restrained from anticipating. R.S.O. 1937, c. 209, s. 4.

Execution
of general
power.

5. The execution of a general power by will by a married woman shall have the effect of making the property appointed liable for her debts and other liabilities, and such property may be seized and sold under an execution against her personal representative after her separate property has been exhausted. R.S.O. 1937, c. 209, s. 5.

Power of
court to bind
interest.
Imp. Act.
44-45 V.,
c. 41, s. 39.

6. Notwithstanding that a married woman is restrained from anticipation the court may, if it thinks fit, where it appears to the court to be for her benefit, by judgment or order, with her consent, bind her interest in any property. R.S.O. 1937, c. 209, s. 6.

Remedies for
protection
of separate
property.

7. Every married woman shall have in her own name against all persons, including her husband, the same remedies for the protection and security of her own separate property as if such property belonged to her as a *feme sole*, but, except as aforesaid no husband or wife shall be entitled to sue the other for a tort. R.S.O. 1937, c. 209, s. 7.

8. A woman after her marriage shall continue to be liable in respect and to the extent of her separate property for all debts contracted and all contracts entered into or wrongs committed by her before her marriage, and she may be sued for any such debt and for any liability in damages or otherwise under any such contract or in respect of any such wrong, and all sums recovered against her in respect thereof or for any costs relating thereto, shall be payable out of her separate property. R.S.O. 1937, c. 209, s. 8.

Wife's ante-nuptial debts, contracts and torts.

9. For the purposes of this Act the legal personal representative of any married woman shall, in respect of her separate estate, have the same rights and liabilities and be subject to the same jurisdiction as she would have had or been subject to if she were living. R.S.O. 1937, c. 209, s. 9.

Legal representative of married woman.

10. Nothing in this Act shall interfere with or affect any settlement or agreement for a settlement made or to be made, whether before or after marriage, respecting the property of any married woman, or shall interfere with or render inoperative any restriction against anticipation at present attached or to be hereafter attached to the enjoyment of any property or income by a woman under any settlement, agreement for a settlement, will or other instrument; but no restriction against anticipation contained in any settlement or agreement for a settlement of a woman's own property to be made or entered into by herself shall have any validity against debts contracted by her before marriage, and no settlement or agreement for a settlement shall have any greater force or validity against her creditors than a like settlement or agreement for a settlement made or entered into by a man would have against his creditors. R.S.O. 1937, c. 209, s. 10.

Saving of settlements, and restraints against anticipation.

11. The provisions of this Act as to the liabilities of married women shall extend to all liabilities by reason of any breach of trust or devastavit committed by a married woman who is a trustee or executrix or administratrix, either before or after her marriage, and her husband shall not be subject to such liabilities unless he has acted or intermeddled in the trust or administration. R.S.O. 1937, c. 209, s. 11.

Liabilities.

12.—(1) In any question between husband and wife as to the title to or possession of property, either party, or any corporation, company, public body or society in whose books any stocks, fund or shares of either party are standing may apply in a summary way to a judge of the Supreme Court or at the option of the applicant irrespectively of the value

Summary disposal of questions between husband and wife as to property.

of the property in dispute, to the judge of the county or district court of the county or district in which either party resides, and the judge may make such order with respect to the property in dispute and as to the costs of and consequent on the application as he thinks fit or may direct the application to stand over from time to time, and any inquiry or issue touching the matters in question to be made or tried in such manner as he thinks fit.

Removal of
proceedings
from county
court into
Supreme
Court.

(2) All proceedings in a county or district court under this section, in which by reason of the character or value of the property in dispute, such court would not have had jurisdiction if this Act had not been passed, may at the option of the defendant or respondent be removed as of right into the Supreme Court, but any order made or act done in the course of the proceedings prior to the removal shall be valid unless an order is made to the contrary by the Supreme Court.

Hearing.

(3) The judge, if either party so requests, may hear any such application in private.

Corpora-
tion's costs.

(4) Any such corporation, company, public body or society shall, in the matter of any such application, for the purposes of costs or otherwise be treated as a stakeholder only.

Appeal.

(5) An appeal shall lie to the Court of Appeal from any order made under this section where the value of the property in dispute exceeds \$200. R.S.O. 1937, c. 209, s. 12.

Order of
protection
for the
earnings of
minor
children.

13.—(1) Any married woman,

- (a) having a judgment for alimony; or
- (b) who lives apart from her husband, having been obliged to leave him from cruelty or other cause which by law justifies her leaving him and renders him liable for her support; or
- (c) whose husband is a mentally incompetent person either with or without lucid intervals; or
- (d) whose husband is undergoing sentence of imprisonment for a criminal offence; or
- (e) whose husband from habitual drunkenness, profligacy or other cause neglects or refuses to provide for her support and that of his family; or
- (f) whose husband has never been in Ontario; or
- (g) who is deserted or abandoned by her husband,

may obtain an order of protection entitling her, notwithstanding her coverture, to have and to enjoy all the earnings

of her minor children, and any acquisitions therefrom, free from the debts and obligations of her husband and from his control or disposition, and without his consent, in as full and ample a manner as if she continued sole and unmarried. R.S.O. 1937, c. 209, s. 13 (1) *amended*.

(2) The married woman may at any time apply, or the husband or any of the husband's creditors may at any time, on notice to the married woman, apply for the discharge of the order of protection, and if an order for discharge is made it may be registered or filed in the same manner as the original order.

(3) Either order may issue in duplicate, and where the married woman resides in a city or town in which there is a magistrate the order of protection or any order discharging it shall be made by the magistrate and shall be registered in the registry office of the registry division in which the city or town is situate.

(4) Where the married woman does not reside in a city or town in which there is a magistrate the order shall be made by the judge or one of the judges or the acting or deputy judge of the division courts or a division court of the county or district in which the married woman resides, and instead of being registered shall be filed for public inspection with the clerk of the division court of the division within which the married woman resides.

(5) The hearing of an application for an order of protection or for an order discharging the same may be public or private at the discretion of the judge or magistrate.

(6) The order for protection shall have no effect until it is registered or filed, and the registrar or clerk shall immediately on receiving the order endorse thereon the day of registering or filing the same.

(7) The order discharging an order of protection shall not be retroactive. R.S.O. 1937, c. 209, s. 13 (2-7).

(8) The order of protection shall protect the earnings of the minor children of the married woman until an order is made discharging the order of protection, and she shall continue to hold and enjoy to her separate use whatever she may have acquired by the earnings of her minor children during the interval between the registering or filing of the order of protection and the making of the order discharging it. R.S.O. 1937, c. 209, s. 13 (8) *amended*.



CHAPTER 224

The Master and Servant Act

1. In this Act, "wages" means wages or salary whether the employment in respect of which the same is payable is by time or by the job or piece or otherwise. R.S.O. 1937, c. 197, s. 1.

Interpretation.

2. No voluntary contract of service or indenture shall be binding for longer than a term of nine years from the date thereof. R.S.O. 1937, c. 197, s. 2, *amended*.

Limitation of voluntary contract of service.

3.—(1) An agreement entered into by a workman, servant or employee and his master or employer under which a share of the profits of any trade, calling, business or employment is to be paid to the workman, servant or employee in lieu of or in addition to salary, wages or other remuneration, unless the agreement otherwise provides or a contrary intention may be reasonably inferred therefrom, shall not,

Agreement for share in profits of business.

(a) create any relation in the nature of a partnership or the rights or liabilities of partners; or

(b) give to the workman, servant or employee the right to examine into the accounts or interfere in the management or affairs of the trade, calling or business.

(2) Any statement or return by the master or employer of the net profits of the trade, calling, business or employment on which he declares and appropriates the share of profits payable under such agreement shall be final and conclusive between the parties and all persons claiming under them, and shall not be impeachable upon any ground, except fraud. R.S.O. 1937, c. 197, s. 3.

Employer's statement of profits to be final.

4.—(1) Upon the complaint on oath of a servant or labourer against his master or employer concerning any non-payment of wages a justice of the peace may summon the master or employer to appear before him at a reasonable time to be stated in the summons, and he or some other justice upon proof on oath of the personal service of the summons, or of its service as hereinafter authorized, shall examine into the matter of the complaint, whether or not the master or employer appears, and upon due proof of the cause of complaint the justice may discharge the servant or labourer from the service

Complaints by servants for non-payment of wages.

or employment of the master or employer, and may direct the payment to him of any wages found to be due, not exceeding the sum of \$200 and the justice shall make such order as to him seems just and reasonable for the payment of such wages, with costs, and in case of the non-payment of the same, together with the costs, for the space of eight days after the order has been made the justice shall issue his warrant of distress for the levying of the wages, together with the costs of the order and of the distress. R.S.O. 1937, c. 197, s. 4 (1); 1942, c. 34, s. 20 (1).

Where complaints may be prosecuted.

(2) A complaint may be prosecuted and determined in any county or district in which the person complained against is found, or in any county or district in which the person complained against carries on business.

Time within which proceedings may be taken.

(3) Proceedings may be taken under this Act within one month after the engagement or employment has ceased, or within one month after the last instalment of wages under the agreement of hiring has become due, whichever last happens.

Work done in Ontario under agreement made out of Ontario.

(4) Proceedings may be had for non-payment of wages in respect of service or labour performed in Ontario upon a verbal or written agreement or bargain made out of Ontario.

When master claims set-off.

(5) Where the master or employer claims a set-off or makes a claim for unliquidated damages the justice of the peace shall investigate the same and give judgment for the balance of wages, if any, due to the claimant after deducting the set-off or claim.

Limit of jurisdiction as to set-off.

(6) The justice of the peace shall not have jurisdiction to adjudicate upon a set-off or claim exceeding the claim for wages except to the extent of the wages. R.S.O. 1937, c. 197, s. 4 (2-6).

Additional remedy in cases before magistrate.

5. Where the proceedings are taken before a magistrate, and payment of wages is ordered by him to be made by the master or employer to the servant or labourer, and the same are not paid within the time limited by the order, the same proceedings may be taken by the person claiming the benefit of the order as may be taken by a party having an unsatisfied judgment or order in a division court for the payment of any debt, damages or costs, as respects the examination of the judgment debtor touching his estate and effects, the means he has of discharging his liability, and the disposal he has made of any property, and the magistrate shall have the like power and authority to enforce payment of the debt as are possessed by a judge of a division court in like cases, and the practice and proceedings thereon shall be the same as nearly

as may be and have the same effect as provided in *The Division Courts Act* with respect to judgment debtors. R.S.O. 1937; c. 197, s. 5. Rev. Stat., c. 106.

6. Subject to section 8 the magistrate may name in the order for payment of wages such time, not exceeding twenty-one days, as to him may seem just and reasonable for the payment of the same and costs, and in case of non-payment within such time the complainant shall be entitled to take forthwith the proceedings for enforcing payment herein provided. R.S.O. 1937, c. 197, s. 6. Limit of time for payment.

7. Where an order is made under this Act by a magistrate for the payment of money, such order may be proceeded upon and enforced in the manner provided by section 739 of the *Criminal Code* (Canada) and it shall apply as if it were set out and enacted herein. R.S.O. 1937, c. 197, s. 7. Procedure upon order of magistrate. R. S. C. 1927, c. 36.

8.—(1) In the case of wages due to any mechanic, labourer or other person in respect of work of the character mentioned in section 5 of *The Mechanics' Lien Act* the jurisdiction of a magistrate of a city under this Act shall extend to wages for thirty days, or for a balance equal to the wages for thirty days, though the same or the balance thereof exceed the sum of \$200. R.S.O. 1937, c. 197, s. 8 (1); 1942, c. 34, s. 20 (2). Jurisdiction of magistrates in cities. Rev. Stat., c. 227.

(2) Where no specific rate of wages has been expressly agreed to between the parties, the magistrate of a city may order payment of the wages, reckoning the amount thereof according to the current rate of wages in the city in like cases, or according to what may appear to be a just and reasonable allowance. Where no specific rate of wages agreed on.

(3) The order shall direct payment of the wages to be made forthwith, and a warrant of distress shall be issued accordingly, unless the master or employer makes oath, and the magistrate believes, that the master or employer is unable to make the payment forthwith, and expects to be able to pay and intends to pay the same within the time given, and unless also the magistrate considers the proposed delay to be under the circumstances reasonable, and the magistrate, if he sees fit, may order security to be given as a condition of delay. Order for payment of wages, enforcing.

(4) In case of an adjournment at the instance of the master or employer the same shall be on payment for the claimant's time in attending the court, the amount to be fixed by the magistrate, and such payment shall be made forthwith unless the magistrate sees reason for dispensing with immediate payment. Adjournment at instance of master.

Enforcement
in division
court.

(5) The order for payment may be filed in that division court which would be the proper court for bringing an action for the wages, and on such filing the order shall become a judgment of such division court and may be enforced as a judgment of that court. R.S.O. 1937, c. 197, s. 8 (2-5).

Service of
summons,
etc.

9.—(1) Every summons issued under this Act against an individual, firm or corporation, and every subsequent paper or proceeding in the action or proceeding in which the summons has been issued may be served, except in the cases provided for by subsection 2, upon the person to whom it is directed either by delivering it to him personally or, if he cannot be found conveniently, by leaving the same for him at any place where such individual, firm or corporation carries on business within the county or district in which the justice of the peace issuing the summons has jurisdiction, with some adult person employed in the office or place of business of such person.

Service on
certain
public
companies.

(2) In cases against railway, telegraph, telephone or express companies every such summons and other papers may be served on any agent of the company whose office or place of business as such agent is within such county or district, and for the purposes of this section the word "agent" includes,

- (a) in the case of a railway company, a station master having charge of a station belonging to the company;
- (b) in the case of a telegraph company, a person having charge of a telegraph office belonging to the company;
- (c) in the case of a telephone company, a person having charge of a telephone office belonging to the company; and
- (d) in the case of an express company, a person having charge of an express office belonging to the company.

Effect of
service under
this section.

(3) Service as authorized by this section shall have the same effect as personal service. R.S.O. 1937, c. 197, s. 9.

Appeal.

10.—(1) An appeal from an order for the payment of wages, or order of dismissal from service or employment, or against any decision of any justice of the peace or magistrate under this Act shall be made to the division court of the division in which the cause of action arose or in which the party or parties complained against, or one of them, resided at the time of the making of the complaint, or to the division court held in the division in which the party or parties complained against or one of them carried on business, and in case of dismissal of the appeal, or affirmance of the order or decision, the court appealed to shall enforce the order

for payment of wages or of dismissal, and for the payment of the costs awarded, and shall, if necessary, issue process for carrying such judgment into effect.

(2) The appeal shall be taken within the time and as nearly as may be, in the manner provided by *The Summary Convictions Act* as to appeals to a county or district court, and the proceedings upon and incidental to the appeal and subsequent thereto shall, except as provided by subsection 1 and by section 11, be the same as nearly as may be, as in the case of an appeal under *The Summary Convictions Act*. Idem. Rev. Stat., c. 379.
R.S.O. 1937, c. 197, s. 10.

11.—(1) The appeal may be tried with a jury if the appellant files with the clerk of the court within ten days after the order or decision a notice requiring a jury, or if the respondent within four days after the service of the notice of appeal upon him files a notice with the clerk requiring a jury, and if the proper fees are in either case deposited with the clerk; otherwise the judge may try the appeal without a jury or may summon a jury from the body of the court as to him seems meet. Trial with or without jury.

(2) Upon the application of either party when a jury is not required the judge may try the appeal at such time and place as he may appoint, and upon such notice as to him seems reasonable. Time and place for hearing appeals.
R.S.O. 1937, c. 197, s. 11.

12.—(1) Every agreement or bargain, verbal or written, expressed or implied, on the part of any workman, servant, labourer, mechanic, or other person employed in any kind of manual labour intended to be dealt with in this Act whereby it is agreed that this Act shall not apply, or that the remedies hereby provided shall not be available for the benefit of any person entering into such agreement, is hereby declared to be null and void and of no effect as against any such workman, servant, labourer, mechanic, or other person. Contracts waiving application of Act to be void.

(2) This section shall not apply to any manager, officer or foreman or to any other person whose wages are more than \$5 a day. Section not to apply to certain persons.
R.S.O. 1937, c. 197, s. 12.

CHAPTER 225

The Maternity Boarding Houses Act

1. In this Act "medical officer of health" means the medical officer of health of the municipality in which any house required by this Act to be registered is situate, and where the house is situate in territory without municipal organization, means the medical officer of health appointed for the locality under *The Public Health Act*. R.S.O. 1937, c. 311, s. 1. Interpretation.
Rev. Stat., c. 306.

2.—(1) No person shall receive or retain for hire or reward any woman or girl for accouchement, or keep unmarried women or girls, being mothers of infants with infants for board or lodging, or keep a maternity boarding house, unless registered under this Act. R.S.O. 1937, c. 311, s. 2. Maternity boarding houses to be registered.

(2) No person whose house is registered under this section shall receive or retain therein for hire or reward any person except women or girls for accouchement, or mothers with infants. 1940, c. 28, s. 18 (1). Persons who may be received in maternity boarding houses.

3.—(1) No person shall receive or retain for hire or reward one or more infants under three years of age for the purpose of nursing or maintaining such infant or infants for a longer period than twenty-four hours, except in a house which is registered under this Act, but any person may be exempted from this section by the medical officer of health of a city or by the Superintendent of Neglected and Dependent Children on proof that one child only is thus cared for. R.S.O. 1937, c. 311, s. 3. Homes for infant children to be registered.

(2) No person whose house is registered under this section shall receive or retain therein for hire or reward any person except infants under three years of age. 1940, c. 28, s. 18 (2). Only children under 3 to be received.

4.—(1) The medical officer of health or any officer specially appointed by him for that purpose shall keep a register of the names of persons applying to register under this Act, and therein shall cause to be registered the name and house of every person so applying and the situation of the house, and the medical officer of health shall fix the number of women or girls or infants who may be received into a house so registered. Register.

Registration,
duration and
fee.

(2) The registration shall remain in force for one year, and a fee, not exceeding \$10, shall be charged for registration. R.S.O. 1937, c. 311, s. 4.

Discretion
as to
registration

5. The medical officer of health may refuse to register any house unless satisfied that it is suitable for the purposes for which it is to be registered, and unless satisfied by the production of certificates that the person applying to be registered is of good character and able to maintain, keep and properly lodge such women or girls or infants. R.S.O. 1937, c. 311, s. 5.

Cancelling
registration.

6. If it is shown to the satisfaction of the medical officer of health that a person whose house is registered under this Act has been guilty of serious neglect or is incapable of providing the women or girls or infants entrusted to his care with proper food and attention, or that the house specified in the register has become unfit for the reception of women or girls or infants, the medical officer of health may remove the name and house from the register. R.S.O. 1937, c. 311, s. 6.

Register to
be kept by
keeper of
boarding
house or
home.

7. Every person registered under this Act shall immediately enter in a register to be kept by him the name and age of every woman or girl or infant and also the place from which the woman or girl or infant came before entering the house, and shall also enter in the register the name of the medical practitioner who attended at any birth taking place in the house or who attended any infant in the house, and when any such woman or girl or infant leaves the house, the place to which they are removed, and the date of the removal, and also whether the infant was taken away with the mother or how otherwise disposed of, or how children boarded without their mothers are disposed of, and shall forthwith transmit to the medical officer of health a copy of every entry made in the register, and shall produce the register when required by the medical officer of health or by any person appointed by him, and in the event of his refusing so to produce the register or neglecting to enter in a register the required particulars, he shall be liable to a penalty of not more than \$20. R.S.O. 1937, c. 311, s. 7.

Forms for
registration
to be fur-
nished to
keepers.

8. The person registered shall be entitled to receive gratuitously from the medical officer of health a book of forms for the registration of persons received into the house, which book shall also contain a printed copy of this Act. R.S.O. 1937, c. 311, s. 8.

Births in
houses to
be attended
by physician.

9. The person registered shall ensure that every birth which takes place in the house is attended by a legally qualified medi-

cal practitioner, who shall report forthwith to the medical officer of health the fact of the birth having taken place and shall also give notice of the same in the manner provided by *The Vital Statistics Act*. R.S.O. 1937, c. 311, s. 9, *amended*. Rev. Stat., c. 412.

10. The person registered shall within twenty-four hours after the death of any inmate of the house, whether a woman, a girl, or an infant born therein or brought thereto as a boarder, cause notice thereof to be given to the medical officer of health, who shall immediately call the coroner to hold an inquest on the body of such inmate, unless a certificate under the hand of a legally qualified medical practitioner is produced to him by the person registered that such medical practitioner had personally attended or examined the person so dying and also specifying the cause of death, and the medical officer of health is satisfied that there is no ground for holding an inquest. R.S.O. 1937, c. 311, s. 10. Notice of deaths to M.O.H.

11. The medical officer of health shall provide for the visiting and inspecting, from time to time, of every house registered under this Act, and the person appointed to inspect shall be entitled to enter the house at any time and examine every part thereof and call for and examine the register kept by the person registering the house and to inquire into all matters concerning the house and the inmates thereof, and the person registered shall give all reasonable information to the person making the inspection, and afford him every reasonable facility for viewing and inspecting the premises, and seeing the inmates thereof. R.S.O. 1937, c. 311, s. 11. Visitation and inspection.

12. No child under three years of age, whether an inmate of any house registered under this Act or born therein or brought thereto shall be given out for adoption except by and with the consent of a children's aid society or other duly incorporated benevolent or charitable institution or society, or of the Superintendent of Neglected and Dependent Children, under such rules and regulations in that behalf as may be approved of by the Lieutenant-Governor in Council. R.S.O. 1937, c. 311, s. 12. Adoption of children from homes.

13. No person registered under this Act shall advertise that he will adopt a child or children or hold out inducements to parents to part with their offspring, and when any such child is transferred by his parents or is given out for adoption to other persons, such transfer shall be made with the knowledge and consent of the agent or secretary of a children's aid society, or of the Superintendent of Neglected and Dependent Children. R.S.O. 1937, c. 311, s. 13. Advertising for children for adoption prohibited.

Securing
registration
by false
representa-
tion, etc.

14. No person shall make any false representation for the purpose of obtaining registration under this Act, or make use of any false certificate knowing it to be false, or falsify any register kept in pursuance of this Act. R.S.O. 1937, c. 311, s. 14.

Registers,
contents of,
not to be
disclosed.

15. The medical officer of health shall not, nor shall any officer employed by him, nor shall the person registered as keeper of any house, divulge or disclose the contents of the register or any of the particulars entered therein, except upon inquiry before a court of law, or at a coroner's inquest, or before some other competent tribunal, or, in the case of such officer or registered person, for the information of the medical officer of health. R.S.O. 1937, c. 311, s. 15.

Record of
antecedents
of inmates.

16. The managers of every maternity hospital, infants' home or other refuge for women, shall ascertain and record the antecedents of women and girls coming under their care, and shall furnish to the medical officer of health such information in their possession as may be called for from time to time. R.S.O. 1937, c. 311, s. 16.

Penalties.

17. Every person who contravenes any of the provisions of this Act shall be guilty of an offence and on summary conviction where no other penalty is provided shall be liable to a penalty of not more than \$100, and when registered under this Act shall in addition be liable to have his name and house removed from the register. R.S.O. 1937, c. 311, s. 17 (1).

Expenses of
execution
of Act.

18. All expenses incurred in and about the execution of this Act and the trial of offenders thereunder shall be borne by the municipality in which the registered house is situated, or in case it is situated in territory without municipal organization, by the Province. R.S.O. 1937, c. 311, s. 18.

Application
of Act.
Rev Stat.,
c. 289.

19. This Act shall not apply to any premises licensed under *The Private Hospitals Act*. 1940, c. 28, s. 18 (3).

CHAPTER 226

The Matrimonial Causes Act

1. In any action for divorce or to declare the nullity of any marriage, the court may order that the husband shall secure to the wife, unless she has been guilty of adultery, such gross sum of money or annual sum of money for any term, not exceeding her life, as, having regard to her fortune, if any, and to the ability of the husband and to the conduct of the parties, may be deemed reasonable and may suspend the pronouncement of the judgment absolute until all necessary deeds and instruments have been executed. R.S.O. 1937, c. 208, s. 1. Gross or annual sums to wives.

2.—(1) In addition to or in substitution for an order under section 1 the court may direct the husband to pay to the wife, unless she has been guilty of adultery, during the joint lives of the husband and wife and so long as she remains chaste such monthly or weekly sum for her support and maintenance as the court may think reasonable, provided that, Monthly or weekly sums to wives.

(a) if the husband after any such order becomes, from any cause, unable to make the payments, the court may discharge or modify the order or temporarily suspend the order in whole or in part and may subsequently revive it in whole or in part as may be deemed proper;

(b) if the means of the husband shall at any time after the making of any such order be increased, the court may, if it is deemed proper, increase the amount payable thereunder;

(c) such payments shall cease on the wife marrying again.

(2) The court shall have the same power to make an order for the payment of interim alimony as in the case of an action for alimony. R.S.O. 1937, c. 208, s. 2. Interim alimony.

3. If a judgment for divorce is pronounced by reason of the adultery of the wife and it appears that the wife is entitled to property either in possession or reversion, the court may order such settlement as it thinks reasonable of her property or any part thereof for the benefit of the children of the marriage or their issue or any or either of them. R.S.O. 1937, c. 208, s. 3. Court may order settlement of wife's property.

Power of
court where
marriage
settlement.

4. If a judgment for divorce is pronounced and it appears that a marriage settlement has been made, the court may make such order with reference to the application of the whole or any part of the property settled for the benefit of the children of the marriage as the court may under all the circumstances of the case deem proper. R.S.O. 1937, c. 208, s. 4.

Power as to
custody of
children.

5.—(1) In any action for divorce the court may from time to time and either before or after the judgment absolute, make such provision as appears to be just with regard to the custody, maintenance and education of the children of the marriage and may direct payment by either the father or the mother of such sum as may be necessary for the due care, maintenance and education of the children of the marriage.

Who may
make ap-
plication.

(2) An application under this section may be made by either husband or wife or by the children by their next friend either at the hearing of the case or upon summary application therein. R.S.O. 1937, c. 208, s. 5.

Divorce
actions,
children
under 16.

6.—(1) Where the statement of claim in any action for the dissolution of marriage contains particulars as to any child of the marriage who is under sixteen years of age at the time of the commencement of the action, the Official Guardian shall cause an investigation to be made and shall report to the court upon all matters relating to the custody, maintenance and education of the child.

Agents.

(2) The Official Guardian may engage any person to make such investigation on his behalf.

Report to be
received in
evidence.

(3) An affidavit of any person making the investigation, verifying the report as to such facts as are within his knowledge and setting out the source of his information and his belief as to any other facts, with the report marked as an exhibit thereto, shall be received in evidence upon the trial of the action.

Attendance
at trial.

(4) Where the facts contained in the report are disputed the Official Guardian or his agent shall attend the trial on behalf of the child and shall cause the person making the investigation to attend as a witness.

Powers of
Judge.

(5) Notwithstanding the fact that no claim for custody is made in the action the judge presiding at the trial may make such order as to the custody and maintenance of the child as may seem proper.

Costs.

(6) The judge in his discretion may order that the costs of the Official Guardian, including his disbursements in connection with the investigation, be paid by any party to the action.

(7) Any person affected by an order made under this section, including the Official Guardian on behalf of the child, may appeal therefrom to the Court of Appeal. Appeal.

(8) The Rules Committee may make rules for carrying this section into effect and except where inconsistent with this section or such rules, *The Judicature Act* and the rules made thereunder shall apply to proceedings under this section. 1949, c. 56, s. 1, *part.* Rules.
Rev. Stat.,
c. 190.

(9) This section shall apply to actions for divorce that are commenced on or after the 1st day of April, 1950. 1949, c. 56, s. 2 (2). Application
of section.

7.—(1) Any party to an action for divorce or for the annulment of a marriage in which a judgment nisi is granted may appeal to the Court of Appeal from the judgment nisi, but no appeal shall lie from the judgment absolute in any such action by any party who having had time and opportunity to appeal from the judgment nisi has not done so. Rights of
appeal.

(2) Any party to an action for divorce or for the annulment of a marriage in which a judgment nisi is granted or any person who intervened or who applied to show cause why the judgment should not be made absolute may appeal to the Court of Appeal from the judgment or order disposing of the matter raised by the intervention or by the application. 1949, c. 56, s. 1, *part.* Idem.

(3) This section shall apply to actions for divorce or for the annulment of a marriage in which judgment nisi is granted on or after the 1st day of April, 1950. 1949, c. 56, s. 2 (3). Application
of section.

8. After the granting of a judgment absolute of divorce the wife shall be regarded as a *feme sole* so far as her property and her right to contract are concerned. R.S.O. 1937, c. 208, s. 6. After divorce
wife a
feme sole.

9. The rules of court relating to the conduct of matrimonial causes may be repealed, amended or varied by the Rules Committee, subject to the approval of the Lieutenant-Governor in Council. R.S.O. 1937, c. 208, s. 7; 1941, c. 55, s. 19, *amended.* Rules
confirmed
with right
to repeal,
amend, etc.

10. So many of the provisions of *The Divorce Act (Ontario)*, 1930 (Canada) as are or may be within the legislative competence of this Legislature are hereby enacted as if fully set out in this Act. 1950, c. 42, s. 50. 1930, c. 14
(Can.),
enacted
in part.

CHAPTER 227

The Mechanics' Lien Act**1. In this Act,**Interpreta-
tion.

- (a) "contractor" means a person contracting with or employed directly by the owner or his agent for the doing of work or service or placing or furnishing materials for any of the purposes mentioned in this Act;
- (b) "material" or "materials" includes every kind of movable property;
- (c) "owner" includes any person, body corporate or politic, including a municipal corporation and a railway company, having any estate or interest in the land upon which or in respect of which the work or service is done, or materials are placed or furnished, at whose request, and
 - (i) upon whose credit, or
 - (ii) on whose behalf, or
 - (iii) with whose privity and consent, or
 - (iv) for whose direct benefit,work or service is performed or materials are placed or furnished and all persons claiming under him or them whose rights are acquired after the work or service in respect of which the lien is claimed is commenced or the materials furnished have been commenced to be furnished;
- (d) "registrar" includes master of titles and local master of titles;
- (e) "registry office" includes land titles office;
- (f) "subcontractor" means a person not contracting with or employed directly by the owner or his agent for the purposes aforesaid, but contracting with or employed by a contractor, or under him by another subcontractor;
- (g) "wages" means money earned by a mechanic or labourer for work done by time or as piece work.

R.S.O. 1937, c. 200, s. 1.

Exception
of streets
or highways.

2. Nothing in this Act shall extend to any public street or highway, or to any work or improvement done or caused to be done by a municipal corporation thereon. R.S.O. 1937, c. 200, s. 2.

Contract
price a
trust fund.

3. All sums received by a builder or contractor or a subcontractor on account of the contract price shall be and constitute a trust fund in the hands of the builder or contractor, or of the subcontractor, as the case may be, for the benefit of the proprietor, builder or contractor, subcontractors, Workmen's Compensation Board, workmen and persons who have supplied material on account of the contract, and the builder or contractor or the subcontractor, as the case may be, shall be the trustee of all such sums so received by him, and until all workmen and all persons who have supplied material on the contract and all subcontractors are paid for work done or material supplied on the contract and the Workmen's Compensation Board is paid any assessment with respect thereto, may not appropriate or convert any part thereof to his own use or to any use not authorized by the trust. 1942, c. 34, s. 21.

Agreements
waiving
application
of Act to
be void.

4.—(1) Every agreement, verbal or written, express or implied, on the part of any workman, servant, labourer, mechanic or other person employed in any kind of manual labour intended to be dealt with in this Act, that this Act shall not apply, or that the remedies provided by it shall not be available for the benefit of such person, shall be null and void.

Exception as
to certain
employees.

(2) This section shall not apply to a manager, officer or foreman, or to any other person whose wages are more than \$10 a day. R.S.O. 1937, c. 200, s. 3.

Effect upon
third party
of agreement
waiving lien.

(3) No agreement shall deprive any person otherwise entitled to a lien under this Act who is not a party to the agreement, of the benefit of the lien, but it shall attach, notwithstanding such agreement. R.S.O. 1937, c. 200, s. 4.

CREATION OF LIEN

General
right of
workman
or material
man to a
lien.

5.—(1) Unless he signs an express agreement to the contrary and in that case subject to section four, any person who performs any work or service upon or in respect of, or places or furnishes any materials to be used in the making, constructing, erecting, fitting, altering, improving or repairing of any erection, building, railway, land, wharf, pier, bulkhead, bridge, trestlework, vault, mine, well, excavation, fence, sidewalk, pavement, fountain, fishpond, drain, sewer, aqueduct, road-bed, way, fruit or ornamental trees, or the appurtenances to any of them for any owner, contractor, or subcontractor, shall

by virtue thereof have a lien for the price of the work, service or materials upon the estate or interest of the owner in the erection, building, railway, land, wharf, pier, bulkhead, bridge, trestlework, vault, mine, well, excavation, fence, sidewalk, paving, fountain, fishpond, drain, sewer, aqueduct, roadbed, way, fruit or ornamental trees, and appurtenances and the land occupied thereby or enjoyed therewith, or upon or in respect of which the work or service is performed, or upon which the materials are placed or furnished to be used, limited, however, in amount to the sum justly due to the person entitled to the lien and to the sum justly owing, except as herein provided, by the owner, and the placing or furnishing of the materials to be used upon the land or such other place in the immediate vicinity of the land designated by the owner or his agent shall be good and sufficient delivery for the purpose of this Act, but delivery on the designated land shall not make such land subject to a lien.

(2) The lien given by subsection 1 shall attach to the land as therein set out where the materials delivered to be used are incorporated into the buildings, erections or structures on the land, notwithstanding that the materials may not have been delivered in strict accordance with subsection 1. R.S.O. 1937, c. 200, s. 5.

Lien attaches where materials incorporated into building.

6. Where work is done or services are performed or materials are furnished to be used upon or in respect of the land of a married woman or in which she has any interest or an inchoate right of dower, with the privity and consent of her husband he shall be presumed conclusively to be acting as her agent as well as for himself for the purposes of this Act unless before doing the work or performing the services or furnishing the materials the person doing, performing or furnishing the same has had actual notice to the contrary. R.S.O. 1937, c. 200, s. 6.

When husband's interest liable for work done or materials furnished on land of married woman.

7.—(1) Where the estate or interest upon which the lien attaches is leasehold, the fee simple shall also be subject to the lien, provided the person doing the work or supplying the material gives notice in writing, by registered letter or personal service, referring to the section, to the owner or his agent of the work to be done or material to be furnished, unless the owner or his agent within ten days thereafter gives notice to such person that he will not be responsible therefor.

Where estate charged is leasehold.

(2) No forfeiture or attempted forfeiture of the lease on the part of the landlord or cancellation or attempted cancellation of the lease except for non-payment of rent shall deprive any person otherwise entitled to a lien under this

Forfeiture or cancellation of lease, effect of on lienholder.

Act of the benefit of the lien provided that the person entitled to the lien may pay any rent accruing after he becomes so entitled and the amount so paid may be added to his claim.

Prior mortgages.

(3) Where the land and premises upon or in respect of which any work or service is performed or materials are furnished to be used is encumbered by a prior mortgage or other charge existing in fact before any lien arises, the mortgage or other charge shall have priority over all liens under this Act to the extent of the actual value of the land and premises at the time the first lien arose, such value to be ascertained by the judge or officer having jurisdiction to try the action by proper evidence to be adduced before him.

Where first lien arose.

(4) The time at which the first lien arose shall be deemed to be the time at which the first work or service is performed or first materials furnished, irrespective of whether a claim for lien in respect thereof is registered or enforced, and whether or not such lien is before the court.

Future advances.

(5) Any mortgage existing as a valid security notwithstanding that it is a prior mortgage within the meaning of subsection 3, may also secure future advances, subject to subsection 1 of section 13.

Agreement for purchase.

(6) Where there is an agreement for the purchase of land and the purchase money or a part thereof is unpaid and no conveyance has been made to the purchaser he shall for the purposes of this Act be deemed a mortgagor and the seller a mortgagee. R.S.O. 1937, c. 200, s. 7, *amended*.

Application of insurance.

8. Where any of the property upon which a lien attaches is wholly or partly destroyed by fire any money received by reason of any insurance thereon by an owner or prior mortgagee or chargee shall take the place of the property so destroyed and shall, after satisfying any prior mortgage or charge in the manner and to the extent set out in subsection 3 of section 7, be subject to the claims of all persons for liens to the same extent as if the money had been realized by a sale of the property in an action to enforce the lien. R.S.O. 1937, c. 200, s. 8.

Limit of amount of owner's liability.

9. Save as herein otherwise provided the lien shall not attach so as to make the owner liable for a greater sum than the sum payable by the owner to the contractor. R.S.O. 1937, c. 200, s. 9.

Limit of lien when claimed by some other than contractor.

10. Save as herein otherwise provided where the lien is claimed by any person other than the contractor the amount which may be claimed in respect thereof shall be limited to the amount owing to the contractor or subcontractor or

other person for whom the work or service has been done or the materials placed or furnished. R.S.O. 1937, c. 200, s. 10.

11.—(1) In all cases the person primarily liable upon any contract under or by virtue of which a lien may arise shall, as the work is done or materials are furnished under the contract, retain for a period of thirty days after the completion or abandonment of the work done or to be done under the contract twenty per cent of the value of the work, service and materials actually done, placed or furnished, as mentioned in section 5, irrespective of whether the contract or subcontract provides for partial payments or payment on completion of the work and the value shall be calculated on the basis of the contract price, or if there is no specific contract price, then on the basis of the actual value of the work, service or materials.

Retention of
percentage
by owner
for thirty
days.

(2) Where the contract price or actual value exceeds \$15,000 the amount to be retained shall be fifteen per cent instead of twenty per cent.

Where con-
tract price
exceeds
\$15,000.

(3) The lien shall be a charge upon the amount directed to be retained by this section in favour of lienholders whose liens are derived under persons to whom the moneys so required to be retained are respectively payable.

Effect of
lien on
amounts
retained.

(4) All payments up to eighty per cent as fixed by subsection 1 or up to eighty-five per cent as fixed by subsection 2 made in good faith by an owner to a contractor, or by a contractor to a subcontractor, or by one subcontractor to another subcontractor, before notice in writing of the lien given by the person claiming the lien to the owner, contractor or subcontractor, as the case may be, shall operate as a discharge *pro tanto* of the lien.

Payments
made in
good faith
without
notice of
lien.

(5) Payment of the percentage required to be retained under this section may be validly made so as to discharge all liens or charges in respect thereof after the expiration of the period of thirty days mentioned in subsection 1 unless in the meantime proceedings have been commenced to enforce any lien or charge against the percentage as provided by sections 22 and 23, in which case the owner may pay the percentage into court in the proceedings and the payment shall constitute valid payment in discharge of the owner to the amount thereof. R.S.O. 1937, c. 200, s. 11.

Payment of
percentage
and
discharge
of liens.

12.—(1) If an owner, contractor or subcontractor makes a payment to any person entitled to a lien under section 5 for or on account of any debt, justly due to him for work or service done or for materials placed or furnished to be used as therein mentioned, for which he is not primarily

Payments
made direct
by owner
to persons
entitled to
lien.

liable, and within three days afterwards gives written notice of the payment to the person primarily liable, or his agent, the payment shall be deemed to be a payment on his contract generally to the contractor or subcontractor primarily liable but not so as to affect the percentage to be retained by the owner as provided by section 11.

Rights of
subcon-
tractor.

(2) Every subcontractor shall be entitled to enforce his lien notwithstanding the non-completion or abandonment of the contract by any contractor or subcontractor under whom he claims. R.S.O. 1937, c. 200, s. 12.

Priority of
lien.

13.—(1) The lien shall have priority over all judgments, executions, assignments, attachments, garnishments, and receiving orders recovered, issued or made after the lien arises, and over all payments or advances made on account of any conveyance or mortgage after notice in writing of the lien to the person making such payments or after registration of a claim for the lien as hereinafter provided, and in the absence of such notice in writing or the registration of a claim for lien all such payments or advances shall have priority over any such lien.

Priority
among
lienholders.

(2) Except where it is otherwise provided by this Act no person entitled to a lien on any property or money shall be entitled to any priority or preference over another person of the same class entitled to a lien on such property or money, and each class of lienholders shall rank *pari passu* for their several amounts, and the proceeds of any sale shall be distributed among them *pro rata* according to their several classes and rights.

Mortgage
given to
person
entitled to
lien void as
against lien-
holders.

(3) Any conveyance, mortgage or charge of or on land given to any person entitled to a lien thereon under this Act in payment of or as security for any such claim, whether given before or after such lien claim has arisen, shall, as against other parties entitled to liens under this Act, on any such land be deemed to be fraudulent and void. R.S.O. 1937, c. 200, s. 13.

PRIORITY OF WAGES

Priority of
liens for
wages.

14.—(1) Every mechanic or labourer whose lien is for wages shall have priority to the extent of thirty days' wages over all other liens derived through the same contractor or subcontractor to the extent of and on the twenty per cent or fifteen per cent, as the case may be, directed to be retained by section 11 to which the contractor or subcontractor through whom the lien is derived is entitled and all such mechanics and labourers shall rank thereon *pari passu*.

(2) Every wage-earner shall be entitled to enforce a lien Enforcing lien in such cases. in respect of any contract or subcontract not completely fulfilled and, notwithstanding anything to the contrary in this Act, may serve a notice of motion on the proper parties returnable in four days after service thereof before the judge or officer having jurisdiction under this Act, that the applicant will on the return of the motion ask for judgment on his claim for lien, registered particulars of which shall accompany the notice of motion duly verified by affidavit.

(3) If the contract has not been completed when the lien Calculating percentage when contract not fulfilled. is claimed by a wage-earner, the percentage shall be calculated on the value of the work done or materials furnished by the contractor or subcontractor by whom the wage-earner is employed having regard to the contract price, if any.

(4) Where the contractor or subcontractor makes default Percentage not to be otherwise applied. in completing his contract the percentage shall not, as against a wage-earner claiming a lien, be applied by the owner or contractor to the completion of the contract or for any other purpose nor to the payment of damages for the non-completion of the contract by the contractor or subcontractor nor in payment or satisfaction of any claim against the contractor or subcontractor.

(5) Every device by an owner, contractor or subcontractor Devices to defeat priority of wage-earners. to defeat the priority given to a wage-earner for his wages and every payment made for the purpose of defeating or impairing a lien shall be null and void. R.S.O. 1937, c. 200, s. 14.

MATERIAL

15.—(1) During the continuance of a lien no part of the Removal of material. material affected thereby shall be removed to the prejudice of the lien.

(2) Material actually delivered to be used for any of the Lien for delivered material. purposes enumerated in section 5 shall be subject to a lien in favour of the person furnishing it until placed in the building, erection or work, and shall not be subject to execution or other process to enforce any debt other than for the purchase thereof due to the person furnishing the same.

(3) The judge or officer trying the action may direct the Sale of material. sale of any material or authorize its removal. R.S.O. 1937, c. 200, s. 15.

REGISTRATION OF LIEN

16.—(1) A claim for a lien (Forms 1, 2 and 3) may be Registration of claim for lien. registered in the proper registry office and shall set out,

- (a) the name and residence of the person claiming the lien and of the owner or of the person whom the person claiming the lien, or his agent, believes to be the owner of the land, and of the person for whom the work or service was or is to be done, or materials furnished or placed, and the time within which the same was or was to be done or furnished or placed;
- (b) a short description of the work or service done or to be done, or materials furnished or placed or to be placed or to be furnished or placed;
- (c) the sum claimed as due or to become due;
- (d) a description of the land sufficient for the purpose of registration and where the land is registered under *The Land Titles Act*, also a reference to the number of the parcel of the land and to the register in which such land is registered in the land titles office;
- (e) the date of expiry of the period of credit when credit has been given.

Rev. Stat.,
c. 197.

Verification
of claim.

(2) The claim shall be verified in duplicate by the affidavit (Form 4) of the person claiming the lien, or of his agent or assignee, having a personal knowledge of the matters required to be verified, and the affidavit of the agent or assignee shall state that he has such knowledge.

Description
of lands
where lien
registered
against
railway.

(3) When it is desired to register a claim for lien against a railway it shall be sufficient description of the land of the railway company to describe it as the land of the railway company and every such claim shall be registered in the general register in the office for the registry division within which the lien is claimed to have arisen. R.S.O. 1937, c. 200, s. 16.

What may
be included
in claim.

17.—(1) A claim for lien may include claims against any number of properties, and any number of persons claiming liens upon the same property may unite therein, but where more than one lien is included in one claim each lien shall be verified by affidavit as provided in section 16.

Apportion-
ment of
claims.

(2) The judge or officer shall have jurisdiction equitably to apportion against the respective properties the amounts included in any claim or claims for liens under subsection 1. R.S.O. 1937, c. 200, s. 17.

Informality
in registering
liens.

18.—(1) A substantial compliance with sections 16, 17 and 29 shall be sufficient and no lien shall be invalidated by reason of failure to comply with any of the requisites of these sections unless, in the opinion of the judge or officer who tries an action

under this Act, the owner, contractor or subcontractor, mortgagee or other person, is prejudiced thereby, and then only to the extent to which he is thereby prejudiced.

(2) Nothing in this section shall dispense with registration of the claim for lien. R.S.O. 1937, c. 200, s. 18. Registration necessary.

19.—(1) The registrar, upon payment of the proper fee shall register the claim, describing it as "Mechanic's Lien" against the land therein described in like manner as if it were a mortgage, and shall certify the registration upon the duplicate, but he shall not copy the claim or affidavit in any registry book, and the duplicates shall be filed in the office of the master or the clerk of the county or district court of the county or district in which the land is situate on or before the trial of the action. R.S.O. 1937, c. 200, s. 19 (1). Effect of registration.

(2) The fee for registration of a claim for lien shall be fifty cents, and if several persons join in one claim the registrar shall be entitled to a further fee of twenty cents for each person after the first. R.S.O. 1937, c. 200, s. 19 (2); 1947, c. 102, s. 5 (1). Fee for registration.

20. Where a claim is so registered the person entitled to a lien shall be deemed a purchaser *pro tanto* and within the provisions of *The Registry Act* and *The Land Titles Act*, but except as herein otherwise provided those Acts shall not apply to any lien arising under this Act. R.S.O. 1937, c. 200, s. 20. Status of lienholder.
Rev. Stat.,
cc. 336, 197

21.—(1) A claim for lien by a contractor or subcontractor in cases not otherwise provided for, may be registered before or during the performance of the contract or of the subcontract or within thirty days after the completion or abandonment of the contract or of the subcontract as the case may be. Limit of time for registration.

(2) A claim for lien for materials may be registered before or during the furnishing or placing thereof, or within thirty days after the furnishing or placing of the last material so furnished or placed. Materials.

(3) A claim for lien for services may be registered at any time during the performance of the service or within thirty days after the completion of the service. Services.

(4) A claim for lien for wages may be registered at any time during the performance of the work for which the wages are claimed, or within thirty days after the last work is done for which the lien is claimed. Wages.

(5) In the case of a contract which is under the supervision of an architect, engineer or other person upon whose certification In case of supervision by architect, etc.

cates payments are to be made, the claim for lien by a contractor may be registered within the time mentioned in subsection 1, or within seven days after the architect, engineer or other person has given or has, upon application in writing to him by the contractor, refused or neglected for three days after such application to give a final certificate.

Duty of
lienholder
whose lien
is not
registered.

(6) Every lienholder who does not register a claim for lien and whose lien is preserved by an action commenced by another lienholder shall nevertheless before the day appointed for the trial of the action give written notice of his lien to the owner or his agent, the mortgagee or his agent and the lienholder who has commenced action, and deposit with the proper officer of the county or district concerned, particulars of his claim verified by affidavit. R.S.O. 1937, c. 200, s. 21.

EXPIRY AND DISCHARGE OF LIEN

Expiry of
liens.

22.—(1) Every lien for which a claim is not registered shall absolutely cease to exist on the expiration of the time hereinbefore limited for the registration thereof unless in the meantime an action is commenced to realize the claim or in which the claim may be realized under this Act and a certificate thereof is registered in the registry office in which the claim for lien might have been registered.

Vacating
orders.

(2) Where a certificate of action has been registered for two years or more in the registry office and no appointment has been taken out for the trial of the action, any interested party may apply *ex parte* to a judge or officer who has jurisdiction to try the action who may make an order vacating the certificate of action and discharging all liens depending thereon. R.S.O. 1937, c. 200, s. 22.

When lien
to cease
if registered
and not
proceeded
upon.

23. Every lien for which a claim has been registered shall absolutely cease to exist on the expiration of ninety days after the work or service has been completed or materials have been furnished or placed, or after the expiry of the period of credit, where such period is mentioned in the claim for lien registered, or in the cases provided for by subsection 5 of section 21, on the expiration of thirty days from the registration of the claim, unless in the meantime an action is commenced to realize the claim or in which the claim may be realized under this Act, and a certificate is registered as provided by section 22. R.S.O. 1937, c. 200, s. 23.

Assignment
or death of
lienholder.

24. The right of a lienholder may be assigned by an instrument in writing and, if not assigned, upon his death shall pass to his personal representative. R.S.O. 1937, c. 200, s. 24.

25.—(1) A lien may be discharged by a receipt signed by the claimant or his agent duly authorized in writing, acknowledging payment, and verified by affidavit and registered. Discharge of lien.

(2) The receipt shall be numbered and entered like other instruments, but shall not be copied in any registry book, and there shall be entered against the entry of the lien to which the discharge relates the word "discharged" and the registration number of the discharge. Registration of receipt.

(3) The fee shall be the same as for registering a claim. Fee.

(4) Upon application the judge or officer having jurisdiction to try an action to realize a lien may allow security for or payment into court of the amount of the claim and such costs as the judge or officer may fix, and may thereupon order that the registration of the lien be vacated or may vacate the registration upon any other proper ground and a certificate of the order may be registered. Security or payment into court and vacating lien thereon.

(5) Any money so paid into court, or any bond or other security for securing the like amount and satisfactory to the judge or officer having jurisdiction, shall take the place of the property discharged and be subject to the claims of every person who has at the time of the application registered his claim for lien or given notice of the claim under subsection 4 of section 11 or section 13 to the same extent as if the money, bond or other security was realized by a sale of the property in an action to enforce the lien, provided that such amount as the judge or officer finds to be owing to the person whose lien has been so vacated shall be a first charge upon the money, bond or other security. Money paid into court.

(6) Where the certificate required by section 22 or section 23 has not been registered within the prescribed time, and an application is made to vacate the registration of a claim for lien after the time for registration of the certificate, the order vacating the lien may be made *ex parte* upon production of the certificate of the proper registrar certifying the facts entitling the applicant to such order. R.S.O. 1937, c. 200, s. 25. When notice of application to vacate not requisite.

EFFECT OF TAKING SECURITY OR EXTENDING TIME

26.—(1) The taking of any security for, or the acceptance of any promissory note or bill of exchange for, or the taking of any acknowledgment of the claim, or the giving of time for the payment thereof, or the taking of any proceedings for the recovery, or the recovery of a personal judgment for the claim, shall not merge, waive, pay, satisfy, prejudice or destroy the lien unless the claimant agrees in writing that it has that effect. Effect generally.

When period
of credit
not expired.

(2) Where any such promissory note or bill of exchange has been negotiated the lienholder shall not thereby lose his lien, if, at the time of bringing his action to enforce it, or where an action is brought by another lienholder, he is, at the time of proving his claim in the action, the holder of such promissory note or bill of exchange.

Time for
bringing
action not
extended.

(3) Nothing in subsection 2 shall extend the time limited by this Act for bringing the action to enforce the lien.

Time for
bringing
action by
person who
gave time for
payment.

(4) A person who has extended the time for payment of a claim for which he has a lien to obtain the benefit of this section, shall commence an action to enforce the lien within the time prescribed by this Act, and shall register a certificate as required by sections 22 and 23, but no further proceedings shall be taken in the action until the expiration of such extension of time. R.S.O. 1937, c. 200, s. 26.

Proving
claim in
action by
another
lienholder.

27. Where the period of credit in respect of a claim has not expired, or where there has been an extension of time, for payment of the claim, the lienholder may nevertheless, if an action is commenced by any other person to enforce a lien against the same property, prove and obtain payment of his claim in the action as if the period of credit or the extended time had expired. R.S.O. 1937, c. 200, s. 27.

LIENHOLDER'S RIGHTS TO INFORMATION

Production
of contract
or agree-
ment.

28.—(1) Any lienholder may, in writing, at any time demand of the owner or his agent the production, for inspection, of the contract or agreement with the contractor for or in respect of which the work, service or material is or is to be performed or furnished or placed, if the contract or agreement is in writing or if not in writing, the terms of the contract or agreement and the state of the accounts between the owner and the contractor, and if the owner or his agent does not at the time of the demand, or within a reasonable time thereafter, produce the contract or agreement if in writing or, if not in writing, does not inform the person making the demand of the terms of the contract or agreement and the amount due and unpaid upon the contract or agreement or if he knowingly falsely states the terms of the contract or agreement or the amount due or unpaid thereon and if the person claiming the lien sustains loss by reason of the refusal or neglect or false statement, the owner shall be liable to him for the amount of the loss in an action therefor or in any action for the enforcement of a lien under this Act and subsection 4 of section 35 shall apply.

Statement
of mort-
gagee or
unpaid
vendor.

(2) Any lienholder may in writing at any time demand of a mortgagee or unpaid vendor or his agent the terms of

any mortgage on the land or of any agreement for the purchase of the land in respect of which the work, service or material is or is to be performed, furnished or placed and a statement showing the amount advanced on the mortgage or the amount owing on the agreement, as the case may be, and if the mortgagee or vendor or his agent fails to inform the lienholder at the time of the demand or within a reasonable time thereafter of the terms of the mortgage or agreement and the amount advanced or owing thereon or if he knowingly falsely states the terms of the mortgage or agreement and the amount owing thereon and the lienholder sustains loss by the refusal or neglect or misstatement, the mortgagee or vendor shall be liable to him for the amount of the loss in an action therefor or in any action for the enforcement of a lien under this Act, and subsection 4 of section 35 shall apply.

(3) The judge or officer having jurisdiction to try an action to realize a lien may, on a summary application at any time before or after any action is commenced for the enforcement of the lien, make an order requiring the owner or his agent or the mortgagee or his agent or unpaid vendor or his agent, as the case may be, to produce and allow any lienholder to inspect any such contract or agreement or mortgage or agreement for sale upon such terms as to costs as he may deem just. R.S.O. 1937, c. 200, s. 28. Production of contract or agreement.

ACTION TO REALIZE CLAIM

29.—(1) A lien shall be enforced in the Supreme Court in an action to be commenced by filing in the office of the local registrar of the Supreme Court in the county or district in which the land is situate a statement of claim, verified by affidavit (Form 5), which affidavit may be made by any of the persons named in subsection 2 of section 16. R.S.O. 1937, c. 200, s. 29 (1); 1947, c. 102, s. 5 (2). Mode of realizing lien.

(2) The statement of claim shall be served within one month after it is filed, but a judge or officer having jurisdiction to try the action may extend the time for service thereof, and the time for delivering the statement of defence shall be the same as for entering an appearance in an action in the Supreme Court. Service.

(3) It shall not be necessary to make any lienholders parties defendant to the action, but all lienholders served with the notice of trial shall for all purposes be deemed parties to the action. Parties.

(4) After the commencement of any action under this Act any lienholder or other person interested may move before the trial. Motion to speed trial.

judge or officer having jurisdiction, to speed the trial of the action. R.S.O. 1937, c. 200, s. 29 (2-4).

Lienholders
joining in
action.

30. Any number of lienholders claiming liens on the same land may join in an action and an action brought by a lienholder shall be deemed to be brought on behalf of himself and all other lienholders. R.S.O. 1937, c. 200, s. 30.

Trial to be
where land
situate.

31.—(1) The action shall be tried in the county or district in which the land is situate before a judge of the county or district court, provided that where the land is situate in the County of York the action shall be tried before a Master of the Supreme Court or an Assistant Master. 1947, c. 102, s. 5 (3).

When action
may be
tried in
Supreme
Court.

(2) Notwithstanding subsection 1, upon the application of any party to an action, made according to the practice of the Supreme Court, and upon notice the court may direct that the action be tried before a judge of the Supreme Court at the regular sittings of the court for the trial of actions in the county or district in which the land is situate. R.S.O. 1937, c. 200, s. 31 (2).

Powers of
certain
officers.

32.—(1) The Master, Assistant Master and the county or district judge, in addition to their ordinary powers shall have all the jurisdiction, powers and authority of the Supreme Court to try and completely dispose of the action and questions arising therein, including power to set aside a fraudulent conveyance or fraudulent mortgage, or a mortgage which amounts to a preference within the meaning of the *Bankruptcy Act*, (Canada), or of *The Assignments and Preferences Act*, and all questions of set-off and counterclaim arising under the building contract or out of the work or service done or materials furnished to the property in question. R.S.O. 1937, c. 200, s. 32 (1); 1939, c. 47, s. 19 (1).

R.S.C. 1927,
c. 11.
Rev. Stat.,
c. 26.

Where con-
tract covers
several
buildings.

(2) Where an owner enters into an entire contract for the supply of material to be used in several buildings the person supplying the material may ask to have his lien follow the form of the contract and that it be for an entire sum upon all the buildings, but in case the owner has sold one or more of the buildings, the judge or officer shall have jurisdiction equitably to apportion against the respective buildings the amount included in the claim for lien under the entire contract.

Power to
appoint a
receiver of
rents and
profits.

(3) At any time after the delivery of the statement of claim, the judge or other officer having jurisdiction to try the action may, on the application of any lien claimant, mortgagee or other party interested, appoint a receiver of the rents and profits of the property against which the claim of lien is registered, upon such terms and upon the giving of such security or without security as to the judge or other officer may seem just.

(4) At any time after the delivery of the statement of claim, any lien claimant, mortgagee or other party interested, may make an application by way of originating notice to a judge of the Supreme Court in chambers who shall have power to appoint, upon such terms and upon the giving of such security or without security as the judge deems best, a trustee with power to manage and sell the property upon which the lien is filed, the management and sale to be under the supervision and direction of the court, and shall be approved by the court, and with power, when so directed by the court, to complete the property and in the event that mortgage moneys are advanced to the trustee as the result of such power, such moneys shall take priority over all liens existing as of the date of the appointment.

Power to direct a sale and appoint a trustee.

(5) The judge in chambers may in his discretion refer the application so made to the judge or officer having jurisdiction to try the action, who may hear *viva voce* or affidavit evidence upon the application, and who shall have the same powers as are conferred upon the judge under subsection 4.

Reference to judge or officer.

(6) Any property directed to be sold under this section may be offered for sale subject to any mortgage or other charge or encumbrance if the judge or other officer having jurisdiction so directs, but only in cases where there is no dispute whatever as to the priority of any such mortgage.

Property offered for sale.

(7) The proceeds of any sale made by a trustee under subsection 4 or 5, shall be paid into court and be subject to the claims of all lienholders, mortgagees or other parties interested in the property so sold as their respective rights may be determined, and in so far as applicable section 36 shall apply.

Proceeds to be paid into court.

(8) The judge of the Supreme Court or the judge or officer having jurisdiction as aforesaid, as the case may be, shall make all necessary orders for the completion of the sale for the vesting of the property in the purchaser and for possession.

Order for completion of sale.

(9) Any such vesting order so made of property so sold by a trustee appointed as aforesaid shall vest the title of the property free from all lienholders' claims, encumbrances and interests of any kind including dower, except in cases where sale is made subject to any mortgage, charge, encumbrance or interest as hereinbefore provided, but nothing in this section or in this Act shall be deemed to extinguish the right to dower, if any, of any married woman or the right to have the value of the same ascertained and deducted from the proceeds of the same so paid into court. R.S.O. 1937, c. 200, s. 32 (2-9).

Vesting of title.

33. Where more actions than one are brought to realize liens in respect of the same land a judge or officer having

Consolidation of actions.

jurisdiction to try such actions may, on the application of any party to any one of the actions, or on the application of any other person interested, consolidate all such actions into one action, and may give the conduct of the consolidated action to any plaintiff as he may see fit. R.S.O. 1937, c. 200, s. 33.

Transferring
carriage of
proceedings.

34. Any lienholder entitled to the benefit of an action may apply for the carriage of the proceedings, and the judge or officer may make an order giving such lienholder the carriage of the proceedings. R.S.O. 1937, c. 200, s. 34.

Appointing
day for
trial.

35.—(1) After the delivery of the statement of defence where the plaintiff's claim is disputed, or after the time for delivery of defence in all other cases and except where the trial is to take place before a judge of the Supreme Court under subsection 2 of section 31 either party may apply *ex parte* to a judge or officer who has jurisdiction to try the action to fix a day for the trial thereof, and the judge or officer shall appoint the time and place of trial.

Notice of
trial and
service of.

(2) The party obtaining an appointment for the trial shall, at least ten clear days before the day appointed, serve notice of trial (Form 6) upon the solicitors for the defendants who appear by solicitors and upon defendants who appear in person, and on all lienholders who have registered their claims as required by this Act or of whose claims he has notice, and on all other persons having any charge, encumbrance or claim on the land subsequent in priority to the lien, who are not parties, and such service shall be personal unless otherwise directed by the judge or officer who may direct in what manner the notice of trial may be served.

Idem.

(3) Where any person interested in the land has been served with a statement of claim and makes default in delivering a statement of defence, he shall nevertheless be served with notice of trial and shall be entitled to defend on such terms as to costs and otherwise as the judge or officer trying the action may deem just.

Trial.

(4) The judge or officer shall try the action and all questions which arise therein or which are necessary to be tried in order to completely dispose of the action and to adjust the rights and liabilities of the persons appearing before him or upon whom the notice of trial has been served, and shall take all accounts, make all inquiries, give all directions and do all other things necessary to finally dispose of the action and of all matters, questions and accounts arising therein or at the trial, and to adjust the rights and liabilities of and give all necessary relief to all parties to the action and all persons who have been served with the notice of trial and shall embody

the results in a judgment (Form 7), which judgment may direct payment forthwith by the person or persons primarily liable to pay the amount of the claims and costs as ascertained by the judgment and execution may be issued therefor forthwith.

(5) The form of the judgment may be varied by the judge or officer in order to meet the circumstances of the case so as to afford to any party to the proceedings any right or remedy in the judgment to which he may be entitled. Power to vary form of judgment.

(6) The judge or officer may order that the estate or interest charged with the lien may be sold and may direct the sale to take place at any time after judgment, allowing, however, a reasonable time for advertising the sale. Sale.

(7) A lienholder who has not proved his claim at the trial, on application to the judge or officer before whom the action was tried, may be let in to prove his claim on such terms as to costs and otherwise as may be deemed just at any time before the amount realized in the action for the satisfaction of liens has been distributed, and where his claim is allowed the judgment shall be amended so as to include his claim. Letting in lienholders who have not proved their claims at trial.

(8) Every lienholder for an amount not exceeding \$100 may be represented by an agent who is not a solicitor. Right of lienholders to representation.

(9) An action may be tried by any officer having jurisdiction to try actions, notwithstanding that the time and place for the trial thereof were appointed and fixed by another officer having jurisdiction. R.S.O. 1937, c. 200, s. 35. Trial of action.

36.—(1) Where a sale is had, the moneys arising therefrom shall be paid into court to the credit of the action and the judge or officer shall make a report on the sale and therein direct to whom the moneys in court shall be paid and may add to the claim of the person conducting the action his fees and actual disbursements incurred in connection with the sale, and where sufficient to satisfy the judgment and costs is not realized from the sale he shall certify the amount of the deficiency and the names of the persons who are entitled to recover the same, showing the amount which each is entitled to recover and the persons adjudged to pay the same, giving credit for payments made, if any, under subsection 4 of section 35, and the persons so entitled may enforce payment of the amounts so found to be due by execution or otherwise. Report where sale is had.

(2) The judge or officer may make all necessary orders for the completion of the sale and for vesting the property in the purchaser. Completion of sale.

Where lien
not
established.

(3) Where a claimant fails to establish a valid lien he may nevertheless recover a personal judgment against any party to the action for such sum as may appear to be due to him and which he might recover in an action against such party. R.S.O. 1937, c. 200, s. 36.

Right of
lienholders
whose claims
are not
payable to
share in
proceeds.

37. Where property subject to a lien is sold in an action to enforce a lien, every lienholder shall be entitled to share in the proceeds of the sale in respect of the amount then owing to him, although the same or part thereof was not payable at the time of the commencement of the action or is not then presently payable. R.S.O. 1937, c. 200, s. 37.

Payment of
money out
of court.

38.—(1) Where money has been paid into court and the time for the payment out has arrived, the judge or officer shall forward a certified copy of his judgment and of the report on sale, if any, to the accountant of the Supreme Court, whereupon the cheques shall be delivered by the accountant to the persons entitled, or their solicitors, in accordance with the usual practice of the accountant's office.

Fees.

(2) No fees or stamps shall be payable on any cheques or on proceedings to pay money into court or to obtain money out of court, in respect of a claim for lien, but sufficient postage stamps to prepay a return registered letter shall be enclosed with every requisition for cheques. R.S.O. 1937, c. 200, s. 38.

Stated case.

39.—(1) If in the course of proceedings to enforce a lien a question of law arises, the judge or officer trying the case may, at the request of any party, state the question in the form of a stated case for the opinion of the court and the stated case shall thereupon be set down to be heard before the Court of Appeal and notice of hearing shall be served by the party setting down upon all parties concerned.

Trans-
mission of
papers.

(2) The stated case shall set forth the facts material for the determination of the question raised and all papers necessary for the hearing of the appeal shall be transmitted to the registrar of the Court of Appeal. R.S.O. 1937, c. 200, s. 39.

NEW TRIAL AND APPEAL

Where
judgment of
court of first
instance to
be final.

40.—(1) Where the aggregate amount of the claims of the plaintiff and all other persons claiming liens is not more than \$100, the judgment shall be final and without appeal, but the judge or officer who tried the action may, upon application within fourteen days after judgment is pronounced, grant a new trial.

(2) In all other cases an appeal shall lie and may be had in like manner and to the same extent as from the decision of a judge trying an action in the Supreme Court without a jury, and the costs of the appeal shall not be governed by section 42 or 43, but subject to any order of the court shall be upon the scale of costs allowed in a division court appeal when the amount involved is not more than \$200, and upon the scale allowed in county court appeals when the amount involved is over \$200 and not more than \$500, and upon the Supreme Court scale when the amount involved is over \$500. R.S.O. 1937, c. 200, s. 40.

Appeal in
other cases.

FEEES AND COSTS

41. No fees in stamps or money shall be payable to any judge or officer in any action brought to realize a lien under this Act, nor on any filing, order, record or judgment or other proceeding in the action, except that every person other than a wage-earner shall on filing his statement of claim where he is plaintiff, or on filing his claim where he is not a plaintiff, pay in stamps \$1 on every \$100 or fraction of \$100 of the amount of his claim up to \$1,000, and \$1 on every \$1,000 or fraction of \$1,000 of the amount of his claim over \$1,000. R.S.O. 1937, c. 200, s. 41.

Limit of
fees in
money or
stamps.

42. The costs of the action, exclusive of actual disbursements awarded to the plaintiffs and successful lienholders, shall not exceed in the aggregate twenty-five per cent of the total amount found to have been actually due on the liens at the time of the registration thereof, and shall be apportioned and borne in such proportion as the judge or officer who tries the action may direct, but in making the apportionment he shall have regard to the actual services rendered by or on behalf of the parties respectively, provided that where a counterclaim is set up by a defendant the amount and apportionment of the costs in respect thereof shall be in the discretion of the judge or officer trying. R.S.O. 1937, c. 200, s. 42; 1939, c. 47, s. 19 (2).

Limit of
costs to
plaintiffs.

43. Where costs are awarded against the plaintiff or other persons claiming liens they shall not exceed, except in the case of a counterclaim, twenty-five per cent of the claim of the plaintiff and the other claimants, besides actual disbursements, and shall be apportioned and borne as the judge or officer may direct. R.S.O. 1937, c. 200, s. 43; 1939, c. 47, s. 19 (3).

Limit of
costs against
plaintiffs.

44. Where the least expensive course is not taken by a plaintiff, the costs allowed to him shall in no case exceed what would have been incurred if the least expensive course had been taken. R.S.O. 1937, c. 200, s. 44.

Costs where
least expen-
sive course
not taken.

Costs of drawing and registering and vacating registration of lien.

45. Where a lien is discharged or vacated under section 25, or where judgment is given in favour of or against a claim for a lien, in addition to the costs of the action, the judge or officer may allow a reasonable amount for the costs of drawing and registering the claim for lien or of vacating the registration thereof, but this shall not apply where the claimant fails to establish a valid lien. R.S.O. 1937, c. 200, s. 45.

Costs not otherwise provided for.

46. Except as otherwise herein provided, all costs of and incidental to all applications and orders shall be in the discretion of the judge or officer. R.S.O. 1937, c. 200, s. 46.

RULES OF PROCEDURE

Rules of procedure.

47.—(1) The object of this Act being to enforce liens at the least expense, the procedure shall be as far as possible of a summary character, having regard to the amount and nature of the liens in question.

Interlocutory proceedings, when allowed.

(2) No interlocutory proceedings shall be permitted, except such as are provided by this Act, without the consent of the judge or officer having jurisdiction, and then only upon proper proof that such proceedings are necessary.

Assistance of experts.

(3) The judge or officer trying may obtain the assistance of merchants, accountants, actuaries, building contractors, architects, engineers or other scientific persons in such way as he deems fit, the better to enable him to determine any matter of fact in question, and may fix the remuneration of such persons and direct payment thereof by any of the parties. R.S.O. 1937, c. 200, s. 47.

LIENS ON CHATTELS

Right of mechanics entitled to lien on a chattel to sell chattel.

48.—(1) Every mechanic or other person who has bestowed money or skill and materials upon any chattel or thing in the alteration or improvement of its properties, or for the purpose of imparting an additional value to it so as thereby to be entitled to a lien upon the chattel or thing for the amount or value of the money or skill and materials bestowed shall, while the lien exists but not afterwards, in case the amount to which he is entitled remains unpaid for three months after the same ought to have been paid, have the right in addition to any other remedy to which he may be entitled to sell by auction the chattel or thing, on giving one week's notice by advertisement in a newspaper published in the municipality in which the work was done, or in case there is no newspaper published in the municipality then in the newspaper published nearest thereto, setting forth the name of the person indebted, the amount

of the debt, a description of the chattel or thing to be sold, the time and place of sale, and the name of the auctioneer, and leaving a like notice in writing at the last known place of residence if any, of the owner, if he is a resident of the municipality.

(2) Such mechanic or other person shall apply the proceeds of the sale in payment of the amount due to him and the costs of advertising and sale and shall upon application pay over any surplus to the person entitled thereto. R.S.O. 1937, c. 260, s. 48.

Application
of proceeds
of sale.

FORM 1

(Sections 16-21)

CLAIM FOR LIEN

A.B. (name of claimant) of (here state residence of claimant), (if claimant is a personal representative or assignee set out the facts) under *The Mechanics' Lien Act* claims a lien upon the estate of (here state the name and residence of owner of the land upon which the lien is claimed), in the undermentioned land in respect of the following work (or service or materials) that is to say (here give a short description of the nature of the work done or to be done, or materials furnished or to be furnished, and for which the lien is claimed) which work (or service) was (or is to be) done (or materials were or are to be furnished) for (here state name and residence of the person upon whose request the work is done or to be done, or the materials furnished or to be furnished) on or before the day of, 19.....

The amount claimed as due (or to become due) is \$.....

The following is the description of the land to be charged (here set out a concise description of the land to be charged sufficient for the purpose of registration).

Where credit has been given, insert: The work was done (or materials were furnished) on credit, and the period of credit agreed to expired (or will expire) on the day of, 19.....

Dated at this day of, 19.....

(Signature of claimant)

R.S.O. 1937, c. 200, Form 1.

FORM 2

(Sections 16-21)

CLAIM FOR LIEN FOR WAGES

A.B. (name of claimant) of (here state residence of claimant), (if claimant is a personal representative or assignee set out the facts) under *The Mechanics' Lien Act* claims a lien upon the estate of (here state the name and residence of the owner of the land upon which the lien is claimed), in the undermentioned land in respect of work performed (or to be performed) thereon while in the employment of (here state the name and residence of the person upon whose request the work was or is to be performed) on or before the day of, 19.....

The amount claimed as due (or to become due) is \$.....

The following is the description of the land to be charged (here set out a concise description of the land to be charged sufficient for the purpose of registration).

Dated at this day of, 19.....

(Signature of claimant)

R.S.O. 1937, c. 200, Form 2.

FORM 3

(Sections 16-21)

CLAIM FOR LIEN FOR WAGES BY SEVERAL CLAIMANTS

The following persons claim a lien under *The Mechanics' Lien Act* upon the estate of (*here state the name and residence of the owner of land upon which the lien is claimed*) in the undermentioned land in respect of wages for labour performed (*or to be performed*) thereon while in the employment of (*here state name and residence or names and residences of employers of the several persons claiming the lien*).

A.B. of (*residence*) \$..... for wages.
 C.D. of " \$..... "
 E.F. of " \$..... " "

The following is the description of the land to be charged (*here set out a concise description of the land to be charged sufficient for the purpose of registration*).

Dated at this day of, 19.....

(*Signatures of several claimants*)

R.S.O. 1937, c. 200, Form 3.

FORM 4

(Sections 16-21)

AFFIDAVIT VERIFYING CLAIM

I, A.B., named in the above (*or annexed*) claim, make oath that the said claim is true.

Or, We, A.B., and C.D., named in the above (*or annexed*) claim, make oath and each for himself makes oath that the said claim, so far as relates to him, is true.

Where affidavit is made by agent or assignee a clause must be added to the following effect:—I have full knowledge of the facts set forth in the above (*or annexed*) claim.

Sworn before me at, in the
 County of, this day
 of, 19.....

Or, The said A.B. and C.D. were severally
 sworn before me at, in the
 County of this day
 of, 19.....

R.S.O. 1937, c. 200, Form 4.

FORM 5

(Section 29)

AFFIDAVIT VERIFYING CLAIM ON COMMENCING AN ACTION

(Style of Court and Cause)

I,, make oath and say, that I have read (or heard read) the foregoing statement of claim, and that the facts therein set forth are, to the best of my knowledge and belief, true, and the amount claimed to be due to me in respect of my lien is the just and true amount due and owing to me after giving credit for all the sums of money or goods or merchandise to which (*naming the debtor*) is entitled to credit as against me.

Sworn before me, etc.

R.S.O. 1937, c. 200, Form 5.

FORM 6

(Section 35)

NOTICE OF TRIAL

(Style of Court and Cause)

TAKE NOTICE that this action will be tried at the in the of, in the County (or District) of on the day of by and at such time and place the will proceed to try the action and all questions as provided by *The Mechanics' Lien Act*.

And further take notice that if you do not appear at the trial and defend the action or prove your claim, if any, the proceedings will be taken in your absence and you may be deprived of all benefit of the proceedings and your rights disposed of in your absence.

And further take notice that all parties and lien claimants shall bring with them on the day herein set for trial all mortgages, contracts, agreements, orders, cheques, notes, delivery slips, time-books, books of account, diaries, duplicate original liens, and any other books or papers necessary to prove liens or defences. If any person fails to comply with these directions, the costs of the day may be given against him in the event that an adjournment is necessary for the production of any of the above-mentioned documentary evidence.

This is a Mechanics' Lien action brought by the above-named plaintiffs against the above-named defendants to enforce a Mechanics' Lien against the following lands: (*set out description of lands*).

This notice is served by, etc.

Dated, 19.....

To.....

1948, c. 87, s. 7.

FORM 7

(Section 35)

JUDGMENT

(Style of Court and Cause)

This action coming on for trial before at upon opening of the matter and it appearing that the following persons have been duly served with notice of trial herein (*set out names of all persons served with notice of trial*) and all such persons (*or as the case may be*) appearing at the trial (*or and the following persons not having appeared set out names of non-appearing persons*) and upon hearing the evidence adduced and what was alleged by counsel for the plaintiff and for C.D. and E.F. and the defendant (*or and by A.B. appearing in person*).

1. This Court doth declare that the plaintiff and the several persons mentioned in the first Schedule hereto are respectively entitled to a lien under *The Mechanics' Lien Act* upon the land described in the second Schedule hereto for the amounts set opposite their respective names in the 2nd, 3rd and 4th columns of the said first Schedule. and the persons primarily liable for the said claims respectively are set forth in the 5th column of the said Schedule.

2. (And this Court doth further declare that the several persons mentioned in Schedule 3 hereto are also entitled to some lien, charge or encumbrance upon the said land for the amounts set opposite their respective names in the 4th column of the said Schedule 3. *according to the facts.*)

3. And this Court doth further order and adjudge that upon the defendant (*A.B.*, the owner) paying into Court to the credit of this action the sum of (*gross amount of liens in Schedules 1 and 3 for which owner is liable*) on or before the day of next, that the said liens in the said first Schedule mentioned be and the same are hereby discharged, (and the several persons in the said third Schedule are to release and discharge their said claims and assign and convey the said premises to the defendant (*owner*) and deliver up all documents on oath to the said defendant (*owner*) or to whom he may appoint) and the said money so paid into Court is to be paid out in payment of the claims of the said lienholders (*or and encumbrancers.*)

4. In case the said defendant (*owner*) shall make default in payment of the said money into Court this Court doth order and adjudge that the said land be sold with the approbation of the Master of this Court at and that the purchase money be paid into Court to the credit of this action.

5. And this Court doth order and adjudge that the said purchase money be applied in or towards payment of the several claims in the said first (and third) Schedule(s) mentioned as the said Master shall direct, with subsequent interest and subsequent costs to be computed and taxed by the said Master.

6. And this Court doth further order and adjudge that in case the said purchase money shall be insufficient to pay in full the claims of the several persons mentioned in the said first Schedule, the persons primarily liable for such claim as shown in the first Schedule do pay to the persons to whom they are respectively primarily liable the amount remaining due to such persons forthwith after the same shall have been ascertained by the said Master.

7. (And this Court doth declare that have not proved any lien under *The Mechanics' Lien Act* and that they are not entitled to any such lien, and this Court doth order and adjudge that the claims of liens registered by them against the land mentioned in the second Schedule be and the same are hereby discharged, *according to the fact.*)

Schedule 1

Names of lien-holders entitled to mechanics' liens	Amount of debt and interest (if any)	Costs	Total	Names of primary debtors

*(Signature of officer)**Schedule 2*

The lands in question in this matter are.....

*(Set out a description sufficient for registration purposes).**(Signature of officer)**Schedule 3*

Names of persons entitled to encumbrances other than mechanics' liens	Amount of debt and interest (if any)	Costs	Total

(Signature of officer)

R.S.O. 1937, c. 200, Form 7.

CHAPTER 228

The Medical Act

1. The College of Physicians and Surgeons of Ontario, hereinafter called the College, is continued as a body corporate, with power to acquire, hold and dispose of real and personal property for the purposes of this Act. R.S.O. 1937, c. 225, s. 1. College of Physicians and Surgeons continued.

2. Every person registered as a legally qualified medical practitioner under any Act heretofore passed or under this Act shall be a member of the College. R.S.O. 1937, c. 225, s. 2. Members thereof under former Acts.

3.—(1) There shall continue to be a council of the College, hereinafter called the Council, to be composed as follows: Council of the College, composition.

- (a) The Minister of Health. Minister of Health.
- (b) One member to be chosen from every university, college or body in Ontario which is authorized to conduct a course or courses in the science and art of medicine and to grant degrees in the same and which is conducting actively such course or courses in medicine at the present time, or from every university, college or body in Ontario which is or may be hereafter authorized and established under the above conditions. Representatives from universities, colleges, etc.
- (c) One member resident in Ontario to be duly elected by the licensed practitioners in homœopathy. Representatives of homœopathy.
- (d) Ten members to be elected in the manner hereinafter provided from amongst and by the registered members of the profession other than those mentioned in clauses *a*, *b* and *c*. Elected members.

(2) No teacher, professor or lecturer of any of the bodies mentioned in subsection 1 shall hold a seat in the Council except as a representative of the body to which he belongs. Restriction.

(3) Every member of the Council appointed under subsection 1 shall be a legally qualified medical practitioner resident in Ontario. Members to be practitioners.

(4) Each of the ten members to be elected as aforesaid shall be a resident of the territorial division for which he is elected, and any member who, during the term for which he is Residence in division.

elected, ceases to reside in the division for which he is elected shall thereby vacate his office as such member.

Elections,
how to be
conducted.

(5) One member shall be so elected from each of the territorial divisions numbered 1 to 8 inclusive and two members shall be elected from territorial division number 9 mentioned in Schedule A by the registered practitioners of medicine resident in such division, and the manner of holding such election shall, with respect to the time thereof and the taking of the votes therefor, be determined by a by-law to be passed by the Council, and in default of such by-law being passed the Lieutenant-Governor in Council shall prescribe the time and manner of holding such election. R.S.O. 1937, c. 225, s. 3.

Term of
office.

4.—(1) The members of the Council other than the Minister of Health shall be elected or appointed, as the case may be, for a period of four years or until their successors are elected or appointed.

Vacancies.

(2) In the event that any member dies, resigns or becomes incapable of acting by reason of mental or physical illness, his seat shall *ipso facto* become vacant.

Declaration
of vacancy
to be
entered upon
minutes.

(3) A declaration of the existence of a vacancy for the reasons mentioned in subsection 2 of this section or subsection 4 of section 3, entered upon the minutes of the Council, shall be conclusive evidence thereof.

Notice as
to vacancy.

(4) In the event of a vacancy, the registrar shall forthwith notify the body in respect of which the vacancy has occurred and such body shall have the power to nominate another duly qualified person to fill the vacancy, or if the vacancy occurs in respect of any member elected from a territorial division, the registrar shall forthwith cause a new election to be held in such territorial division and the election shall be conducted in accordance with the by-laws and regulations of the Council.

Powers of
Council
during
vacancy.

(5) During any vacancy it shall be lawful for the Council to exercise all its powers under this Act. 1946, c. 52, s. 1 (1).

Vacancies in
respect of
homœo-
pathic
members of
the Council.

(6) In the event of a vacancy in respect of any member of the Council representing the practitioners of the homœopathic system of medicine, the remaining practitioners of the homœopathic system in Ontario may fill the vacancy by selecting from amongst the duly registered practitioners resident in Ontario and actually engaged in the practice of homœopathy, a person to fill the vacancy. R.S.O. 1937, c. 225, s. 4 (2); 1946, c. 52, s. 1 (2).

Notice of
date of
nomination.

(7) The registrar shall, not more than sixty and not less than forty days before the time for receiving nominations for any quadrennial election under this Act, notify by letter or post-

card every registered medical practitioner in Ontario of the date of receiving such nominations, and in case of an election to fill a vacancy the registrar shall, not more than thirty and not less than fifteen days before the time for receiving nominations, notify by letter or postcard every registered medical practitioner entitled to vote thereat of the date of receiving nominations to fill the vacancy. R.S.O. 1937, c. 225, s. 4 (3).

5. The persons entitled to vote under this Act at any election shall be all duly registered practitioners resident in Ontario. R.S.O. 1937, c. 225, s. 5. Persons entitled to vote.

6.—(1) Any member of the College may have his name transferred from one class of voters to any other class on his presenting to the registrar a certificate authorized by the executive committee and duly signed by its chairman testifying that the member so applying to have his name transferred has shown a sufficient knowledge of the system of medicine with which he desires to connect himself to entitle him to be admitted to the class to which he desires to be transferred and on being so admitted he shall be entitled to vote in that class only. Transfer to different class on voters' list.

(2) There shall be payable to the registrar for such transfer a fee of \$2. Fee on transfer.

(3) No member shall, without the sanction of the Council, be entitled to return to the class from which he has been so transferred, and no member shall at any time be entitled to vote in more than one class of the voters who, in accordance with the provisions of this Act, vote in the election of the members of the Council. R.S.O. 1937, c. 225, s. 6. Return of voter to former class. Not to vote in more than one class.

7. In case of any doubt or dispute as to the legality of the election of any member of the Council, it shall be lawful for the Council to hold an inquiry and decide who is the legally elected member of the Council, and the person whom they decide to have been elected shall be and be deemed to be the member legally elected, and if the election is found to have been illegal the Council shall have power to order a new election. R.S.O. 1937, c. 225, s. 7. Disputed elections, how dealt with.

8.—(1) In case the validity of the election of any member of the Council is contested, the same shall be tried by the judge or junior or acting judge of the county or district court of the county or district in which the person whose election is complained of resides, and the proceedings thereon shall *mutatis mutandis* be the same as nearly as may be as in the case of municipal elections under the sections of *The Municipal Act* relating to controverted elections, but no security by the complainant shall be necessary. Controverted elections. Rev. Stat., c. 243.

Who may
be relator.

(2) Any person qualified to vote at the election complained of may be the relator in proceedings under this section.

Decision
final.

(3) The decision of the judge shall be final. R.S.O. 1937, c. 225, s. 8.

Meetings of
the Council.

9.—(1) The council may make rules and regulations as to the times and places of meetings of the Council, and the mode of summoning the same, and in the absence of any rule or regulation as to the summoning of meetings the president or vice-president or, in the event of his absence or death, the registrar may summon a meeting to be held at such time and place as to him seems fit, by letter mailed to each member.

Absence of
president.

(2) In the event of the absence of the president from any meeting, the vice-president or, in his absence, some other member to be chosen from among the members present shall act as chairman. R.S.O. 1937, c. 225, s. 9 (1, 2).

Majority.

(3) All questions shall be decided by the majority of the members present, and eight members shall form a quorum of the Council. R.S.O. 1937, c. 225, s. 9 (3); 1946, c. 52, s. 2.

Casting vote.

(4) At all meetings the chairman shall in the case of an equality of votes have a casting vote in addition to the vote he is entitled to as a member. R.S.O. 1937, c. 225, s. 9 (4).

Payment to
members of
the Council.

10. There shall be paid to the members of the Council such fees for attendance, and such reasonable travelling expenses, as may be fixed by by-law of the Council. R.S.O. 1937, c. 225, s. 10.

Appoint-
ment of
officers.

11.—(1) The Council shall annually elect a president and vice-president from among its members and shall also appoint a registrar-treasurer, assistant registrar and such other officers as may from time to time be necessary for giving effect to this Act, who shall hold office during the pleasure of the Council, and the Council may fix the salaries or fees to be paid to such officers, and to the board of examiners hereinafter mentioned. R.S.O. 1937, c. 225, s. 11; 1946, c. 52, s. 3.

Absence of
registrar-
treasurer.

(2) During the absence of the registrar-treasurer by reason of illness or otherwise, the powers and duties conferred and imposed upon him by this Act shall be exercised and performed by the assistant registrar. 1946, c. 52, s. 19.

Executive
committee.

12. The Council shall appoint annually from among its members an executive committee, to take cognizance of, and action upon, all such matters as may be delegated to it by the Council or as may require immediate interference or attention between the adjournment of the Council and its next meeting,

and all such acts shall be valid only until the next ensuing meeting of the Council; but the committee shall have no power to alter, repeal or suspend any by-law of the Council. R.S.O. 1937, c. 225, s. 12.

13.—(1) In each of the territorial divisions described in Schedule A there may be established a territorial division medical association, which may be called the division association of such division. Territorial division medical associations.

(2) Every member of the College resident within the territorial division, shall be a member of the division association, and the representative elected to the Council for the territorial division shall be *ex officio* chairman of the division association. Membership. R.S.O. 1937, c. 225, s. 13.

14.—(1) The Council shall have power and authority to make regulations respecting educational qualifications for all candidates applying for student registration but any change in the curriculum of studies fixed by the Council shall not come into effect until one year after such change is made. Educational qualifications of students. R.S.O. 1937, c. 225, s. 14 (1); 1946, c. 52, s. 4 (1).

(2) Until a homœopathic medical college for teaching purposes is established in Ontario, candidates wishing to be registered as homœopathists shall possess the educational qualification fixed pursuant to subsection 1, and shall present evidence of having spent the full period of study required by the curriculum of the Council in a duly approved homœopathic medical college under the supervision of a duly registered homœopathic practitioner. Homœo-pathists. R.S.O. 1937, c. 225, s. 14 (2); 1946, c. 52, s. 4 (2).

(3) Such candidates must also have complied with the full curriculum of studies prescribed from time to time by the Council for all medical students, but the full time of attendance upon lectures and hospitals required by the curriculum of the Council may be spent in such homœopathic medical colleges in the United States of America or in Europe as may be recognized by a majority of the homœopathic members of the Council, provided only that the time so spent shall not be less in length than that required of other students; but in all homœopathic colleges, where the winter course of lectures is of only four months' duration, certified tickets of attendance on one such course shall be held to be equivalent to two-thirds of one six-month course as required by the Council, and when such teaching body has been Compliance with curriculum.

established in Ontario it shall be optional for such candidates to pursue in part or in full the required curriculum in Ontario. R.S.O. 1937, c. 225, s. 14 (3).

Council may recognize certificates of foreign institutions. **15.** The Council may make by-laws as to the terms upon which it will receive the certificates of colleges and other institutions not in Ontario. R.S.O. 1937, c. 225, s. 15; 1946, c. 52, s. 5.

Graduates of Universities in His Majesty's Dominions. **16.** Graduates in science and graduates in arts including a science, of any university in His Majesty's dominions shall be deemed to possess the educational qualifications fixed pursuant to subsection 1 of section 14. 1946, c. 52, s. 6.

Curriculum of studies. **17.** The Council may prescribe a curriculum of studies to be pursued by the students, and such curriculum of studies shall be observed and taught by all bodies referred to in section 3. R.S.O. 1937, c. 225, s. 17.

Approval for medical courses. **18.**—(1) No person shall conduct a course or courses in the science or art of medicine or shall grant degrees in medicine without the approval of the Lieutenant-Governor in Council upon the recommendation of the Minister of Health.

Revocation of approval. (2) Upon the recommendation of the Minister of Health the Lieutenant-Governor in Council may at any time revoke any approval given under this section. 1947, c. 63, s. 1.

Registration. **19.**—(1) The Council shall cause to be kept by the registrar a book or register, in which shall be entered the name of every person registered according to the provisions of this Act, and the names of all persons who have complied with the enactments hereinafter contained, and with the rules and regulations made or to be made by the Council respecting the qualifications to be required from practitioners of medicine, surgery and midwifery in Ontario.

Only registered persons to practise. (2) Those persons only whose names are inscribed in the book or register mentioned in subsection 1 shall be deemed to be qualified and licensed to practise medicine, surgery or midwifery in Ontario, except as hereinafter provided.

Inspection of register. (3) The book or register shall at all times be open and subject to inspection by any duly registered practitioner in Ontario or by any other person. R.S.O. 1937, c. 225, s. 18.

Registrar to keep register correct. **20.**—(1) The registrar shall keep the register correct and in accordance with this Act and the orders and regulations of the Council, and shall erase the names of all registered

persons who have died, and make the necessary alterations in the addresses and qualifications of the persons registered under this Act.

(2) To enable the registrar duly to fulfil the duties imposed upon him, he may, by letter sent by registered post addressed to any registered person according to his address on the register, inquire whether such person has ceased to practise or has changed his residence, and if no answer to such letter is received within the period of six months from the mailing thereof the registrar may erase the name of such person from the register; but such name shall be restored to the register on compliance with the other provisions of this Act. R.S.O. 1937, c. 225, s. 19.

Written inquiry by registrar.

21. The Council may admit to registration medical practitioners duly registered in The Medical Register of the United Kingdom, or in any register of persons entitled to practise in any part of the Commonwealth of Nations, upon such terms and conditions as the Council may from time to time deem expedient, having regard not only to the qualification of applicants for registration, but also to such rules, regulations and conditions as may be from time to time in force regarding the reciprocal admission to The Medical Register of the United Kingdom or other register as aforesaid of medical practitioners registered according to the provisions of this Act. R.S.O. 1937, c. 225, s. 20; 1946, c. 52, s. 7.

Admitting medical practitioners registered elsewhere.

22. The Council may make regulations providing for a system of temporary registration during any period when Canada is at war and for a period of six months thereafter. 1944, c. 35, s. 1, *part*.

Temporary registration.

23. Every person desirous of being registered under this Act shall, before being entitled to registration, be possessed of such qualifications as the orders, regulations or by-laws of the Council may provide, and shall have complied therewith. R.S.O. 1937, c. 225, s. 21.

Qualifications.

24.—(1) The Council may by by-law provide that persons applying for registration shall pass the examinations conducted by the Medical Council of Canada pursuant to the *Canada Medical Act* and produce a certificate of qualification from such last-mentioned Council.

Examinations held under *Canada Medical Act*, R.S.C., 1927, c. 129.

(2) During the time a by-law passed under subsection 1 remains in force and the Medical Council of Canada conducts annual examinations in Ontario, the Council shall not be

Provincial examinations suspended.

required to appoint examiners or conduct examinations as provided in sections 26, 27 and 28. R.S.O. 1937, c. 225, s. 22.

Registration
of persons
from other
provinces.

25. When and as soon as it appears that there has been established in any other province of Canada a central examining board similar to that constituted by this Act, or an institution duly recognized by the legislature of such other province as the sole examining body for the purpose of granting certificates of qualification, and wherein the curriculum is equal to that established in Ontario, the holder of any such certificate shall be entitled to registration by the Council upon the production of his certificate if the same privilege is accorded by such examining board or institution to those holding certificates in Ontario. R.S.O. 1937, c. 225, s. 23.

Board of
examiners.

26.—(1) At the annual meeting of the Council in each year, there shall be elected a board of examiners whose duty it shall be to examine, at least once in each year, all candidates for registration in accordance with the by-laws, rules and regulations of the Council.

Examiners,
how
appointed.

(2) The board of examiners shall be composed of one member from each of the medical teaching bodies now existing or hereafter authorized and established as referred to in section 3 and not less than a like number of members to be chosen from among those members of the College who are not connected with any of such teaching bodies. R.S.O. 1937, c. 225, s. 24.

Where ex-
aminations
to be held.

27. The examinations shall be held at Toronto at such times and in such manner as the Council by by-law directs and may also be held at Kingston and London if not less than ten candidates apply for examination at such cities. R.S.O. 1937, c. 225, s. 25.

Examina-
tions of
homœo-
paths.

28. A candidate who, at the time of his examination, signifies his wish to be registered as a homœopathic practitioner, shall not be required to pass an examination in either materia medica, or therapeutics, or in the theory or practice of physic, or in surgery or midwifery, except the operative practical parts thereof, before any examiners other than those approved of by the representatives in the Council of the homœopathic system. R.S.O. 1937, c. 225, s. 26.

Power of
Council to
make rules,
etc.

29.—(1) The Council shall from time to time as occasion may require, make such orders, regulations or by-laws as may be necessary,

(a) respecting the registers to be kept under this Act, and the fees to be paid for registration;

(b) for the guidance of the board of examiners.

(2) The Council may prescribe the subjects and modes of the examinations, the time and place of holding the same, and generally may make all such rules and regulations in respect of such examinations, not contrary to the provisions of this Act, as they deem expedient and necessary. R.S.O. 1937, c. 225, s. 27. As to examinations.

30. Every person registered under this Act who obtains any higher degree or any qualification other than the qualification in respect of which he has been registered, shall, on the payment of such fees as the Council may prescribe, be entitled to have such higher degree or additional qualification inserted in the register in substitution for, or in addition to, the qualification previously registered. R.S.O. 1937, c. 225, s. 28. Additional qualification or degree.

31.—(1) No qualification shall be entered on the register either on the first registration or by way of addition to a registered name unless the registrar is satisfied by proper evidence that the person claiming is entitled to it, and any appeal from the decision of the registrar may be decided by the Council, and any entry proved to the satisfaction of the Council to have been incorrectly made shall be erased from the register by resolution passed by the Council. R.S.O. 1937, c. 225, s. 29 (1); 1946, c. 52, s. 8. Registrar to be satisfied as to qualification.

(2) In the event of the registrar being dissatisfied with the evidence adduced by the person claiming to be registered, he shall have the power, subject to an appeal to the Council, of refusing registration until the person claiming to be registered has furnished such evidence duly attested by oath before the judge of a county or district court. R.S.O. 1937, c. 225, s. 29 (2). Evidence on oath.

32.—(1) Where any registered medical practitioner has either before or after he is registered been convicted either in His Majesty's dominions or elsewhere of an offence which, if committed in Canada, would be an indictable offence, or been guilty of any infamous or disgraceful conduct in a professional respect, or has been declared, certified or found to be mentally incompetent or mentally ill, pursuant to the relevant statutes in that behalf, such practitioner shall be liable to have his name erased from the register. R.S.O. 1937, c. 225, s. 30 (1); 1942, c. 26, s. 1 (1). Erasing names from register.

(2) The Council or the executive committee may, and upon the application of any four registered medical practitioners shall, cause inquiry to be made into the case of a person alleged to be liable to have his name erased under this section, and on Action by Council.

proof of such conviction or of such infamous or disgraceful conduct or of such declaration, certificate or finding of mental incompetency or mental illness, the Council shall cause the name of such person to be erased from the register; but the name of a person shall not be erased under this section on account of his adopting, or refraining from adopting, the practice of any particular theory of medicine or surgery, nor on account of a conviction for a political offence out of His Majesty's dominions, nor on account of a conviction for an offence which though within the provisions of this section ought not, either from the trivial nature of the offence, or from the circumstances under which it was committed, to disqualify a person from practising medicine or surgery. R.S.O. 1937, c. 225, s. 30 (2); 1942, c. 26, s. 1 (2).

Order for
payment of
costs to re-
spondent.

(3) The Council may order to be paid out of any funds at their disposal such costs as to them may seem just to any person against whom any complaint has been made which when finally determined is found to have been frivolous and vexatious.

Removal
from register
after con-
viction by
court.

(4) Upon receipt of proof of the finding or decision of any court of record in Canada, civil or criminal, that a criminal offence has been committed in connection with the practice of his profession by any registered medical practitioner, the registrar shall immediately erase from the register the name of such practitioner. R.S.O. 1937, c. 225, s. 30 (3, 4).

Restoring
names to
register after
erasure.

33.—(1) Where the Council directs the erasure from the register of the name of any person, or of any other entry, the name of that person or that entry shall not be again entered on the register, except by the direction of the Council, or by the order of the Court of Appeal.

Restoration
by Council.

(2) If the Council think fit in any case, they may direct the registrar to restore to the register any name or entry erased therefrom either without fee or on payment of such fee, not exceeding the registration fee, as the Council may from time to time fix, and the registrar shall restore the same accordingly. R.S.O. 1937, c. 225, s. 31.

Suspension
of registra-
tion.

34.—(1) In the cases mentioned in subsection 1 of section 32, the Council, instead of directing the erasure from the register of the name of any person, may direct that the registration of such person be suspended for such period as the Council may deem proper, and during the period of such suspension it shall be unlawful for the person suspended to engage in the practice of medicine in Ontario, and he shall during such period be deemed to be unregistered. R.S.O. 1937, c. 225, s. 32 (1).

(2) If such person engages in the practice of medicine during the period of such suspension, he shall on summary conviction be liable to the penalty provided by section 49. R.S.O. 1937, c. 225, ss. 32 (2), 53. Practising while suspended.

(3) Sections 35 to 39 shall apply to the suspending of any person under this section in the same manner as to the erasing from the register of the name of any person. R.S.O. 1937, c. 225, s. 32. Application of other provisions to suspension.

35.—(1) The Council shall for the purpose of exercising in any case the powers of erasing from and of restoring to the register the name of any person or any entry, ascertain the facts of such case by a committee of their own body not exceeding five in number, of whom the quorum shall be not less than three, and a written report of the committee may be acted upon for the purpose of the exercise of such powers by the Council. Committee for erasing and restoring names.

(2) The Council shall from time to time appoint, and shall always maintain a committee for the purposes of this section, and subject to the provisions of this section, may from time to time determine the constitution, and the number and tenure of office of the members of the committee. Appointment.

(3) The committee shall meet from time to time for the despatch of business and, subject to the provisions of this section and of any regulations from time to time made by the Council, may regulate the summoning, notice, place, management and adjournment of such meetings, the appointment of a chairman, the mode of deciding questions and generally the transaction and management of business including the quorum, and if there is a quorum the committee may act notwithstanding any vacancy in their body and in case of a vacancy the committee may appoint a member of the Council to fill the vacancy until the next meeting of the Council, and if through illness or for any other reason a member of this committee is unable or unwilling to act, the president, or in his absence the vice-president, shall have power to appoint a member in his place. Procedure.

(4) The committee may, for the purpose of the execution of their duties under this Act, employ, at the expense of the Council, such legal or other assessor or assistant as the committee may think necessary or proper, and the person whose conduct is the subject of inquiry shall also have the right to be represented by counsel, and all meetings of any such committee when held for taking evidence or otherwise ascertaining the facts shall be held either within the county where the member complained of resides or the alleged offence was committed or at the City of Toronto as may be determined by the registrar. Legal assistance, etc.

Notice of
charge and
hearing.

(5) At least two weeks before the first meeting of the committee to be held for taking the evidence or otherwise ascertaining the facts, a notice shall be served upon the person whose conduct is the subject of inquiry, and the notice shall embody a copy of the charges made against him or a statement of the subject matter of the inquiry, and shall also specify the time and place of the meeting.

Evidence.

(6) The testimony of witnesses shall be taken under oath, to be administered by the chairman or acting chairman of the committee, and there shall be full right to cross-examine all witnesses called and to call evidence in defence and reply.

Proceeding
in absence
of accused.

(7) In the event of the non-attendance of the person whose conduct is the subject of such inquiry, the committee may, upon proof of personal service of the notice aforesaid in accordance with the provisions of this section, which proof of service may be by statutory declaration, proceed with the subject matter of the inquiry in his absence and may make their report of the facts without further notice to such person.

Service of
notice.

(8) The notice required by subsection 5 shall be deemed to have been duly served in accordance with the provisions thereof if sent by registered mail, prepaid, to the address of the person required to be served, as last entered upon the register. R.S.O. 1937, c. 225, s. 33.

Appeal from
committee.

36. No action shall be brought against the Council, committee, registrar-treasurer or assistant registrar for anything done *bona fide* under this Act, notwithstanding any want of form in the proceedings, but any person whose name has been ordered to be erased from the register may appeal from the decision of the Council to the Court of Appeal, at any time within six months from the date of the order for such erasure, and the court may, upon the hearing of the appeal, make such order as to the restoration of the name so erased or confirming such erasure, or for further inquiry by the committee or Council into the facts of the case, and as to costs as the court deems just. R.S.O. 1937, c. 225, s. 34; 1946, c. 52, s. 9.

Procedure.

37. The appeal may be by motion, notice of which shall be served upon the registrar, and shall be founded upon a copy of the proceedings before the committee, the evidence taken, the committee's report and the order of the Council in the matter, certified by the registrar, and the registrar shall, upon the request of any person desiring to appeal, and upon payment of the cost thereof furnish to any such person a certified copy of all proceedings, reports, orders and papers, upon which the committee have acted in making the order complained of. R.S.O. 1937, c. 225, s. 35.

38. Upon any inquiry under section 32 either party may, without leave or order, obtain from the Supreme Court a subpœna commanding the attendance and examination of any witness and also the production of any documents the production of which could be compelled at the trial of an action, to and before the committee and at the time and place mentioned in the subpœna, and disobedience to the subpœna shall be deemed a contempt of court, but the person whose attendance is required shall be entitled to the like conduct money and payment of expenses and for loss of time as upon attendance at a trial. R.S.O. 1937, c. 225, s. 36.

Evidence before committee for erasing and restoring names.

39. In case of the erasure of a name under the preceding provisions of this Act, the Council may direct the costs of and incidental to such erasure to be paid by the party whose name has been directed to be erased, which costs shall first be taxed by one of the taxing officers of the Supreme Court upon whose certificate execution may issue for the collection of such costs by the College out of the Supreme Court as upon a judgment in an action in such court. R.S.O. 1937, c. 225, s. 37.

Costs of proceedings.

40. Every person registered under this Act shall be entitled according to his qualification or qualifications to practise medicine, surgery or midwifery, or any of them, as the case may be, in Ontario, and to demand and recover in any court reasonable charges for professional aid, advice and visits and the cost of any medicine or other medical or surgical appliances rendered or supplied by him to his patients. R.S.O. 1937, c. 225, s. 38.

Rights of registered persons.

41. No duly registered member of the College shall be liable to any action for negligence or malpractice, by reason of professional services requested or rendered, unless such action is commenced within one year from the date when in the matter complained of such professional services terminated. R.S.O. 1937, c. 225, s. 39.

Limitation of actions for negligence.

42.—(1) The registrar shall from time to time under the direction of the Council cause to be printed and published a correct register of the names in alphabetical order according to the surnames, with the respective residences in the form set forth in Schedule B, or to the like effect, with the titles, diplomas and qualifications of medical character and the dates thereof, of all persons appearing on the register as existing

Register to be printed and published.

on the day of publication and such register shall be called The Published Ontario Medical Register. R.S.O. 1937, c. 225, s. 40 (1); 1946, c. 52, s. 10.

Register to be *prima facie* evidence in all courts.

(2) A copy of such register for the time being purporting to be printed and published as aforesaid, shall be *prima facie* evidence in all courts, and before all justices of the peace, and others, that the persons therein specified are registered according to the provisions of this Act, and, subject to subsection 3, the absence of the name of any person from such copy shall be *prima facie* evidence that such person is not registered according to the provisions of this Act.

Certified copy of entry of name.

(3) In the case of any person whose name does not appear in such copy, a certified copy under the hand of the registrar, of the entry of the name of such person on the register, shall be evidence that such person is registered under this Act. R.S.O. 1937, c. 225, s. 40 (2, 3).

Annual fee.

43.—(1) Every member of the College shall pay to the registrar or to any person deputed by the registrar to receive it, such annual fee, not being less than \$1 nor more than \$5, as may from time to time be determined by by-laws of the Council passed in accordance with this section, to be applied towards the general expenses of the College, which fee shall be due on and from the 1st day of January in the year in which the same is imposed, and such fee shall be deemed to be a debt due by each member to the College, and shall be recoverable with costs of suit in the name of the College of Physicians and Surgeons of Ontario, in the division court of the division in which the member resides. R.S.O. 1937, c. 225, s. 41 (1); 1946, c. 52, s. 11.

Collection of fee.

(2) The Council may by by-law prescribe means of collecting and enforcing the payment of such annual fee. R.S.O. 1937, c. 225, s. 41 (2).

Annual certificate.

44.—(1) Every registered medical practitioner shall obtain from the registrar annually, in the month of January, a certificate under the seal of the College that he is a duly registered medical practitioner.

Issue of certificate.

(2) Upon payment of all fees and dues payable by such medical practitioner to the College the registrar shall write his name on the margin of the certificate and the date thereof and the certificate shall be deemed to be issued only from such date.

Certificate not to issue until fees paid.

(3) No certificate shall be issued to any practitioner who is indebted to the College for any sums payable to the College,

nor until the annual fee for such certificate prescribed by the by-laws of the College under this Act is paid.

(4) If a practitioner omits to take out such annual certificate he shall not be entitled thereto until he pays to the College the certificate fee as aforesaid, together with any other fees or dues which he owes to the College.

Penalty for not taking out annual certificate.

(5) After twelve months default in taking out such certificate, and if two months notice of such default is given by registered letter addressed to the registered address of the defaulter, the registrar shall, if payment has not been made by the defaulter, erase his name from the register, and the provisions of this Act as to unregistered medical practitioners shall forthwith apply to such medical practitioner. R.S.O. 1937, c. 225, s. 42 (1-5).

Erasure of name where default made for 12 months.

(6) Such medical practitioner may, unless otherwise disqualified under this Act, at any time after his name is so erased by the registrar, obtain re-registration by applying to the registrar and paying \$5 in addition to all arrears of fees and dues under this Act, and taking out his certificate as herein provided, and he shall be thereupon reinstated to the full privileges enjoyed by other registered medical practitioners under this Act. R.S.O. 1937, c. 225, s. 42 (6); 1946, c. 52, s. 12.

Re-registration upon payment of arrears.

45.—(1) The provisions of sections 43 and 44 shall only continue in force so long as a by-law of the Council adopting the same remains in force, and the Council may repeal such by-law and may by by-law from time to time re-enact the said provisions in whole or in part, or with such modifications as the Council deems proper, subject always to the limit prescribed by section 43. R.S.O. 1937, c. 225, s. 43 (1).

Power of Council in respect of ss. 43, 44.

(2) No member of the Council shall be entitled to vote on any by-law under this section except the elected members of the Council, six of whom at least must be present at the passing of the by-law. R.S.O. 1937, c. 225, s. 43 (2); 1946, c. 52, s. 13.

Who may vote on by-laws under this section.

46. Any person entitled to be registered under this Act but who neglects or omits to be so registered, shall not be entitled to any of the rights or privileges conferred by registration, so long as such neglect or omission continues, and he shall be liable to all the penalties imposed by this Act, or by any other Act in force against unqualified or unregistered practitioners. R.S.O. 1937, c. 225, s. 44.

Those entitled to register and neglecting to do so.

Penalty on registrar for falsification.

47. If the registrar makes or causes to be made any wilful falsification in any matter relating to the register, he shall be guilty of an offence and on summary conviction shall be liable to a penalty of \$50, and shall be disqualified from again holding the office of registrar. R.S.O. 1937, c. 225, ss. 45, 53.

Penalty for obtaining registration by fraud.

48.—(1) If any person procures or causes to be procured his registration under this Act, by means of any false or fraudulent representation or declaration, either verbal or in writing, the registrar, upon the receipt of sufficient evidence of the falsity or fraudulent character of the said representation or declaration, shall represent the matter to the Council, and upon the written order of the president, attested by the seal of the College, shall erase the name of such person from the register, and make known the fact and cause of the erasure by notice to be published in *The Ontario Gazette*.

Consequences of erasure.

(2) After such notice has appeared the person whose name has been erased as aforesaid shall cease to be a member of the College and shall cease to enjoy any of the privileges conferred by registration under this Act, and shall not be entitled to enjoy the same at any future time without the express sanction of the Council. R.S.O. 1937, c. 225, s. 46 (1, 2).

Penalty.

(3) If any person wilfully procures or attempts to procure himself to be registered under this Act, by making any false or fraudulent representation or declaration, either verbally or in writing, he shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100, and every person knowingly aiding and assisting him therein shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$20 and not more than \$50. R.S.O. 1937, c. 225, ss. 46 (3), 53.

Penalty for practising without registration.

49. No person not registered shall practise medicine, surgery or midwifery for hire, gain or hope of reward, and if any person not registered pursuant to this Act, for hire, gain or hope of reward practises or professes to practise medicine, surgery or midwifery, or advertises to give advice in medicine, surgery or midwifery, he shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$50 and not more than \$100 for the first offence, and for any subsequent offence a penalty of not less than \$200 and not more than \$500. R.S.O. 1937, c. 225, ss. 47, 53; 1946, c. 52, s. 14.

Penalty for falsely pretending, etc.

50. Any person who wilfully or falsely pretends to be a physician, doctor of medicine, surgeon or general practitioner, or assumes any title, addition or description other than he actually possesses and is legally entitled to, shall be guilty of an

offence and on summary conviction shall be liable to a penalty of not less than \$50 and not more than \$100 for the first offence and for any subsequent offence a penalty of not less than \$200 and not more than \$500. R.S.O. 1937, c. 225, ss. 48, 53; 1946, c. 52, s. 15.

51.—(1) Any person not registered pursuant to this Act who takes or uses any name, title, addition or description implying or calculated to lead people to infer that he is registered under this Act, or that he is recognized by law as a physician, surgeon, accoucheur or a licentiate in medicine, surgery or midwifery, or who assumes, uses or employs the title "Doctor", "Surgeon" or "Physician" or any affix or prefix indicative of such titles as an occupational designation relating to the treatment of human ailments or physical defects or advertises or holds himself out as such, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$50 and not more than \$100 for the first offence, and for any subsequent offence a penalty of not less than \$200 and not more than \$500. R.S.O. 1937, c. 225, ss. 49 (1), 53; 1946, c. 52, s. 16.

Use of certain titles restricted.

(2) Subsection 1 shall not apply to any licentiate of dental surgery or any other person admitted to practise dentistry or dental surgery under *The Dentistry Act*. R.S.O. 1937, c. 225, s. 49 (2).

Exception as to dentistry. Rev. Stat., c. 92.

52. No person shall be entitled to recover any charge in any court for any medical or surgical advice, or for attendance, or for the performance of any operation, or for any medicine which he may have prescribed or supplied, unless he produces to the court a certificate that he was registered under this Act at the time the services were rendered, but this section shall not apply,

Not entitled to recover charges unless registered.

- (a) to the sale of any drug or medicine by any duly authorized chemist or druggist;
- (b) to the personal representative of a deceased person who at the time of giving, making, performing, prescribing or supplying such advice, attendance, operation or medicine was so registered; or
- (c) where such advice, attendance, operation or medicine was given, made, performed, prescribed or supplied outside of Ontario. 1946, c. 52, s. 17.

53. No person shall be appointed as medical officer, physician or surgeon in any branch of the public service of Ontario, or in any hospital or other charitable institution not

Public appointments only conferred on registered persons.

supported wholly by voluntary contributions, unless he is registered under this Act. R.S.O. 1937, c. 225, s. 51.

Certificates
by unregis-
tered persons
invalid.

54. No certificate required by any Act now in force, or that may hereafter be passed, from any physician or surgeon or medical practitioner, shall be valid unless the person signing the certificate is registered under this Act. R.S.O. 1937, c. 225, s. 52.

Burden of
proof.

55. In any trial under this Act the burden of proof as to registration shall be upon the person charged. R.S.O. 1937, c. 225, s. 54.

Evidence of
registry and
signature of
registrar.

56. In all cases where proof of registration under this Act is required to be made, the production of a printed or other copy of the register, certified under the hand of the registrar shall be sufficient evidence of all persons who are registered practitioners, in lieu of the production of the original register, and any certificate upon such printed or other copy of the register, purporting to be signed by any person in his capacity of registrar under this Act shall be *prima facie* evidence that such person is the registrar, without any proof of his signature or of his being in fact the registrar. R.S.O. 1937, c. 225, s. 55.

Limitation
of prosecu-
tions.

57. Every prosecution under this Act shall be commenced within one year from the date of the alleged offence. R.S.O. 1937, c. 225, s. 56.

Stay of
proceedings.

58. If the Council deems it expedient so to do, it may stay proceedings in any prosecution under this Act by an order signed by the president and sealed with the seal of the College. R.S.O. 1937, c. 225, s. 57.

To whom
penalties
paid.

59.—(1) All penalties recovered under this Act shall be paid to the convicting justice and shall be paid by him to the registrar of the College, and shall form part of the funds thereof.

Prosecutor.

(2) Any person may be prosecutor or complainant under this Act, and the Council may allot such portion of the penalties recovered as may be expedient towards the payment of such prosecutor. R.S.O. 1937, c. 225, s. 58.

Specialists.

60.—(1) The council may make regulations providing for a system of classification of legally qualified medical practitioners who because of special training or qualifications are specialists in any branch of medicine, surgery or midwifery and may in such regulations,

- (a) define the nature of the various classes of specialists;
- (b) prescribe the qualifications required of specialists in the various classes;
- (c) provide for the designation of specialists upon application and examination or otherwise and for the suspension or revocation of any such designation;
- (d) regulate and prohibit the use of terms or designations by medical practitioners indicating specialization in any branch of medicine, surgery or midwifery;
- (e) prescribe the fees payable by persons designated as specialists and provide for the collection thereof.

(2) A certificate as to the designation or non-designation of any person as a specialist signed or purporting to be signed by the registrar shall be admissible in evidence as *prima facie* proof of the facts stated therein without proof of the appointment or signature of the registrar. 1944, c. 35, s. 1, *part*. Certificate of registrar.

61. All moneys forming part of the Council funds shall be paid to the treasurer and may be applied or used in such manner as the Council may determine, Council funds.

- (a) for the carrying out of the provisions of this Act;
- (b) for any purpose which may tend to advance scientific knowledge or medical education and maintain the standards of the practice of medicine, surgery and midwifery;
- (c) for assisting in the maintenance of a fund for the benefit of needy medical practitioners in Ontario; and
- (d) generally to promote the objects of the College. 1946, c. 52, s. 18.

62. Subject to the provisos and conditions therein contained, the *Canada Medical Act* and amendments thereto are accepted and shall apply to the Province of Ontario, and registration by the Medical Council of Canada shall be accepted as equivalent to registration for the like purposes under this Act. R.S.O. 1937, c. 225, s. 60. Application of R.S.C. 1927, c. 129.

SCHEDULE A

TERRITORIAL DIVISIONS

(CONSISTING OF THE FOLLOWING COUNTIES, DISTRICTS AND CITY)

- | | |
|--|---|
| 1—Essex
Kent
Lambton
Elgin

2—Middlesex
Norfolk
Oxford
Perth
Huron

3—Bruce
Grey
Dufferin
Waterloo
Brant
Wellington

4—Haldimand
Welland
Lincoln
Wentworth

5—Simcoe
Halton
Peel
York
Ontario
Durham
Victoria | 6—Peterborough
Northumberland
Prince Edward
Hastings
Lennox and Addington
Frontenac
Renfrew
Leeds

7—Lanark
Grenville
Carleton
Dundas
Stormont
Glengarry
Russell
Prescott

8—Haliburton
Muskoka
Parry Sound
Nipissing
Timiskaming
Sudbury
Algoma
Thunder Bay
Rainy River
Kenora
Manitoulin

9—City of Toronto |
|--|---|

R.S.O. 1937, c. 225, Sched. A.

SCHEDULE B

FORM OF REGISTER

<i>Name</i>	<i>Residence</i>	<i>Qualifications and Additions</i>
A.B.	Toronto, County of York.....	M.A., M.D., University of Toronto
C.D.	Kingston, County of Frontenac	M.A., M.D., Queen's University
E.F.	Etobicoke, County of York.....	M.A., M.D., University of Western Ontario
G.H.	Toronto.....	M.A., M.D., University of Toronto

R.S.O. 1937, c. 225, Sched. B.

CHAPTER 229

The Mental Hospitals Act

PART I

1. In this Act and the regulations, unless the context ^{Interpreta-} otherwise requires, ^{tion.}

- (a) "approved home" means a home to which patients may be released from an hospital or hospital school in the manner provided under this Act and the regulations;
- (b) "child" includes son and daughter; R.S.O. 1937, c. 392, s. 1 (a, b).
- (c) "Department" means Department of Health; R.S.O. 1937, c. 392, s. 1 (c) *amended*.
- (d) "Deputy Minister" means Deputy Minister of Health; R.S.O. 1937, c. 392, s. 1 (d) *amended*.
- (e) "examination unit" means a place to which any person may be sent for observation, care and treatment in the manner provided under this Act and the regulations;
- (f) "habitué" means an alcoholic or drug habitué;
- (g) "hospital" means an hospital established under this Act and includes every approved home and examination unit connected therewith or forming part thereof;
- (h) "hospital school" means a school established under this Act for mental defectives and includes every approved home and examination unit connected therewith or forming part thereof;
- (i) "inspector" means an officer of the Department appointed as an inspector for any of the purposes of this Act and the regulations;
- (j) "institution" means hospital, hospital school and examination unit;
- (k) "mental defective" and "mentally defective person" means a person in whom there is a condition of arrested or incomplete development of mind, whether

arising from inherent causes or induced by disease or injury, and who requires care, supervision and control for his own protection or welfare or for the protection of others;

- (l) "mental deficiency" means the condition of mind of a mental defective;
- (m) "mentally ill person" means a person other than a mental defective who is suffering from such a disorder of the mind that he requires care, supervision and control for his own protection or welfare, or for the protection of others;
- (n) "mental illness" means the condition of mind of a mentally ill person;
- (o) "Minister" means Minister of Health or such other member of the Executive Council as is charged for the time being with the administration of this Act;
- (p) "parent" includes father and mother;
- (q) "patient" means a person admitted under this Act and the regulations to an institution;
- (r) "regulations" means regulations made under this Act;
- (s) "steward" means an officer of the Department who is appointed as the steward of an institution;
- (t) "superintendent" means an officer of the Department who is appointed as the superintendent of an institution. R.S.O. 1937, c. 392, s. 1 (*e-t*).

Application
to certain
institutions.

2. This Act shall apply to such institutions as may be designated from time to time by the regulations. R.S.O. 1937, c. 392, s. 2.

Names of
hospitals.

3.—(1) Every hospital established under this Act shall be known as "The Ontario Hospital" followed by the name of the city or town at or near which such hospital is located, or such name as the Lieutenant-Governor in Council may designate.

Names of
hospital
schools.

(2) Every hospital school established under this Act shall be known as "The Ontario Hospital School" followed by the name of the city or town at or near which such hospital school is located, or such name as the Lieutenant-Governor in Council may designate. R.S.O. 1937, c. 392, s. 3.

Exempted
from the
Act.

4. This Act shall not apply to,

Rev. Stat.,
c. 290.

- (a) a sanitarium subject to *The Private Sanitaria Act*;

- (b) a psychiatric hospital established under *The Psychiatric Hospitals Act*. R.S.O. 1937, c. 392, s. 4. Rev. Stat.,
c. 301.

5.—(1) The Lieutenant-Governor in Council may make Regulations. such regulations as are necessary for carrying out this Act and for the efficient administration thereof. R.S.O. 1937, c. 392, s. 5 (1); 1946, c. 89, s. 28.

(2) Without limiting the generality of subsection 1, the powers of the Lieutenant-Governor in Council to make regulations in the manner set out therein shall extend to and include, Idem.

- (a) designating the institutions to which the Act shall apply;
- (b) prescribing the district served and classes of patient to be treated in any institution;
- (c) the powers and duties of the Deputy Minister;
- (d) the appointment of superintendents, inspectors, stewards, assistants, clerks and other officers and employees and prescribing their powers and duties;
- (e) regulating the inspection, superintendence, government, management, conduct, operation, maintenance, care and use of institutions and equipment;
- (f) regulating the apprehension and admission of persons;
- (g) regulating the care, treatment, maintenance, conduct, discipline, custody, transfer, probation, release, discharge and apprehension of patients;
- (h) prescribing the forms relating to patients and their admission to, maintenance in, transfer, release or discharge from institutions, and all other forms required for the carrying out of this Act and the regulations;
- (i) prescribing the records, books, accounting systems, audits, reports and returns to be made and kept respecting institutions;
- (j) regulating the financial business and affairs of institutions;
- (k) granting certificates of approval to approved homes and examination units and the fees payable therefor, and withdrawing such certificates;
- (l) fixing the situation, construction and equipment of approved homes and examination units;

- (m) declaring that any provisions of this Act and the regulations shall not be applicable to approved homes and examination units;
- (n) prescribing the charges which shall be paid by the persons liable for the maintenance of patients in institutions;
- (o) prescribing the amounts to be paid by the Department for the care and maintenance of patients in approved homes;
- (p) generally, the control of all other matters in any way relating to institutions, and respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1937, c. 392, s. 5 (2).

PART II

ADMINISTRATION AND CONTROL

Adminis-
tration
vested in
the Depart-
ment.

6.—(1) The administration of this Act and of every institution established thereunder, is vested in the Department, and the Deputy Minister shall be the chief executive officer of the Department responsible to and subject to the control of the Minister.

Delegation
of authority
by Deputy
Minister.

(2) Where this Act and the regulations require or authorize the Deputy Minister to do any act, such act may be done by any person whom the Deputy Minister shall appoint to do such act. R.S.O. 1937, c. 392, s. 6.

Superin-
tendent to
control the
institution.

7. Subject to section 6, the superintendent of an institution shall be in charge of and have control over the institution for which he is appointed, and shall superintend the conduct and management of all its affairs and control all officers, clerks, servants and employees thereof and all the patients therein. R.S.O. 1937, c. 392, s. 7.

Inspector.

8. The Lieutenant-Governor in Council may appoint inspectors with such designations or titles as he may deem expedient. R.S.O. 1937, c. 392, s. 8.

Steward.

9. The financial business and affairs of an institution shall be in charge of the steward appointed thereto who shall be responsible to the superintendent of the institution. R.S.O. 1937, c. 392, s. 9.

Consent of
Attorney-
General
for actions.

10.—(1) No action, prosecution or other proceeding shall be brought or be instituted against any officer, clerk, servant,

or employee of the Department, or the Public Trustee, or against any other person for an act done in pursuance or execution or intended execution of any duty or authority under this Act or the regulations, or in respect of any alleged neglect or default in the execution of any such duty or authority, without the consent of the Attorney-General.

(2) All actions and prosecutions against any person for anything done or omitted to be done in pursuance of this Act shall be commenced within six months after the act or omission complained of has been committed, and not afterwards. Limitation of actions.

(3) No action shall lie against any institution or any officer, employee or servant thereof for the tort of any patient. R.S.O. 1937, c. 392, s. 10. Tort of patient.

11.—(1) No person shall, Offences.

- (a) assist any patient in escaping or attempting to escape from an institution; or
- (b) do or omit an act for the purpose of aiding any patient in escaping or attempting to escape from an institution; or
- (c) abet or counsel any patient to escape; or
- (d) visit, assist, counsel or communicate with any patient after having been prohibited in writing from doing so by the Deputy Minister or any superintendent.

(2) Every one who violates any of the provisions of subsection 1 shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$25 and not more than \$100 and, in default of payment, to not more than thirty days' imprisonment. Penalty.

(3) Every person who violates any provision of this Act or the regulations shall be guilty of an offence and on summary conviction, where no penalty is specifically provided, be liable to a fine of not less than \$10 and not more than \$100 and, in default of payment, to imprisonment for not more than thirty days. R.S.O. 1937, c. 392, s. 11 (1-4) *amended*. General penalties.

PART III

PATIENTS IN INSTITUTIONS

12.—(1) Application for the admission of any person as a patient to an institution shall be made either verbally or in writing to the Deputy Minister or to a superintendent and no person shall be admitted to an institution until a direction has been issued by the Deputy Minister or a superintendent or Applications for admission.

other person in charge of an institution, and no person may present himself or be sent for admission to an institution until notice is received from the Deputy Minister or a superintendent that accommodation in an institution is available for the person.

Admission
after
notice
issued.

(2) Where a direction and notice have been issued under subsection 1, the person named therein shall present himself or be taken to the institution named therein and shall be admitted to the institution in accordance with the direction and notice. R.S.O., 1937, c. 392, s. 12.

Related
practitioners
not to issue
certificates,
etc.

13.—(1) Except as permitted by the regulations or by the Minister, no certificate or form required by this Act or the regulations with respect to any person shall be made, issued, given or signed by any medical practitioner who is by blood or marriage closely related to or connected with any other medical practitioner who makes, issues, gives or signs a certificate or form with respect to the same person.

Practitioner
not to be
related to
person
examined.

(2) Except as permitted by the regulations or by the Minister, no certificate or form required by this Act or the regulations to be made, issued, given or signed by a medical practitioner respecting any person shall be made, issued, given or signed by a medical practitioner who is by blood or marriage closely related to or connected with such person. R.S.O. 1937, c. 392, s. 13.

Superin-
tendent
to be in
charge of
patients.

14. Except as provided by this Act, the superintendent of an institution shall have full control over and the custody and care of the person of every patient in the institution and every patient shall be maintained, cared for, treated in, released and discharged therefrom only as may be provided by this Act and the regulations. R.S.O. 1937, c. 392, s. 14.

Forms not
invalid for
defects
in form or
substance.

15. No form required by this Act and the regulations shall upon any application, by way of *certiorari*, or motion to quash or *habeas corpus*, be held insufficient or invalid for any irregularity, informality or insufficiency therein or by reason of any defect of form or substance. R.S.O. 1937, c. 392, s. 15.

Transfers
to public
hospitals.

16.—(1) Where the superintendent of an institution reports to the Deputy Minister that a patient therein requires hospital treatment which cannot be supplied therein, the Deputy Minister shall, if otherwise permitted by law, have authority to transfer the patient to a public hospital for treatment which cannot be supplied in the institution and to return the patient to an institution when the patient has received such treatment as may be necessary. R.S.O. 1937, c. 392, s. 16 (1); 1941, c. 29, s. 1 (1).

(2) The charges for such hospital treatment shall be paid by the patient unless he is an indigent person, in which case the charges shall be payable in the same manner as charges for indigent patients are payable under *The Public Hospitals Act*. R.S.O. 1937, c. 392, s. 16 (2). Charges.
Rev. Stat.,
c. 307.

(3) The Deputy Minister shall have authority to transfer any patient in an institution to a psychiatric hospital under *The Psychiatric Hospitals Act* for investigation or treatment, and to return the patient to an institution when the patient has received such investigation or treatment as may be necessary. 1939, c. 47, s. 20. Transfer to
psychiatric
hospital.
Rev. Stat.,
c. 301.

(4) Where a patient has been transferred under subsection 1 or subsection 3 the superintendent of the institution to which he has been transferred shall in addition to any of the powers conferred upon him by the general or special Act under which the hospital operates, have the power of a superintendent of an institution under this Act, with respect to the custody and control of the patient. 1941, c. 29, s. 1 (2). Control of
transferee.

17.—(1) Where the Deputy Minister or an inspector is authorized by the Minister to institute an inquiry into the management or affairs of an institution, or into any matter in connection therewith, or into the truth of any returns made by any officer thereof and deems that any person should give evidence before him on oath, the Deputy Minister or the inspector shall have the same power to summon such person to attend as a witness, to enforce his attendance and to compel him to produce documents and to give evidence as any court in civil cases. Special
inquiry
by Deputy
Minister or
inspector.

(2) An inspector appointed under any other Act, the administration of which is under the charge of the Minister, may when authorized by the Minister exercise the powers conferred by subsection 1 in respect of any hospital or other institution subject to such other Act. R.S.O. 1937, c. 392, s. 17. Inspector
appointed
under
other Act.

PART IV

MENTALLY ILL AND MENTALLY DEFECTIVE PERSONS

18. Any person who is mentally ill may be admitted to an institution as a voluntary patient, and any person who is mentally ill or mentally defective may be admitted to an institution as a, Admission.

- (a) certificated patient;
- (b) Deputy Minister's warrant patient;
- (c) Lieutenant-Governor's warrant patient;

- (d) patient remanded by a judge or a magistrate in accordance with this Act and the regulations. R.S.O. 1937, c. 392, s. 18.

Voluntary patients, how admitted.

19.—(1) The superintendent of an institution may receive and detain therein as a patient any person suitable for care and treatment who voluntarily makes written application in the prescribed form and whose mental condition, in the opinion of the superintendent, is such as to render him competent to make application.

Limit of period of detention.

(2) Subject to section 24, a person so received shall not be detained more than five days after having given notice in writing of his desire to leave the institution.

When person not to be admitted as a voluntary patient.

(3) No person may be admitted as a voluntary patient who is,

- (a) a person suffering from mental illness or infirmity due to old age or from incurable disease for which general hospital or other institutional care is required;
- (b) a mental defective. R.S.O. 1937, c. 392, s. 19.

Certificated patients.

20.—(1) Certificated patients shall be admitted to an institution only upon the prescribed certificates of two medical practitioners, and in every case the history record and financial statement in the prescribed form shall accompany such certificate or certificates.

Medical certificate.

(2) Every such certificate shall state and show clearly that the medical practitioner signing it personally examined the patient separately from any other medical practitioner and, after due inquiry into all the necessary facts relating to the case of the patient, found him to be mentally ill or mentally defective.

Contents.

(3) Each medical practitioner shall also in such certificate state the facts upon which he has formed his opinion of the mental illness or deficiency, distinguishing the facts observed by him from the facts communicated to him by others, and every such certificate shall be signed in the presence of one subscribing witness who shall not be a physician issuing a certificate, and shall show the date upon which the examination was made.

Limitation of certificate.

(4) No person may be admitted as a certificated patient except within three months of the examination referred to in any certificate. R.S.O. 1937, c. 392, s. 20.

To be completed in 7 days and forwarded in 14 days.

21. Every certificate shall be completed within seven days of the examination referred to therein and shall be forwarded within fourteen days of the examination to the Department

or to the superintendent of the institution in the district where the patient resides, together with all other material required by this Act and the regulations. R.S.O. 1937, c. 392, s. 21.

22. Subject to section 12, the certificate or certificates, when accompanied by the forms mentioned in subsection 1 of section 20, shall be sufficient authority to any person to convey the patient to the institution and to the authorities thereof to detain him therein, or to the authorities of any other institution to which the patient may have been or may be removed by the order of the Deputy Minister to detain him in such institution as long as he continues to be mentally ill or mentally defective. R.S.O. 1937, c. 392, s. 22.

23. In any municipality where a mentally ill or mentally defective person is in destitute circumstances and is a fit subject for hospital treatment, application may be made to the head of the municipality for an examination to be made and certificates given in accordance with section 20, and the head of the municipality, if satisfied that the person is in destitute circumstances, shall immediately notify two medical practitioners to make the required examination. R.S.O. 1937, c. 392, s. 23.

24.—(1) Notwithstanding anything in subsection 2 of section 19, any mentally ill person who has been admitted as a voluntary patient and any habituate patient, or any person admitted under section 35, or any person detained under section 54, may be continued as a certificated patient upon the certificates of two medical practitioners with the accompanying history record and financial statement in the prescribed form.

(2) The certificates required by subsection 1 shall not be issued by any medical practitioner who is an officer of the Department, and a certificate upon which any patient was admitted to an examination unit shall not be a certificate for the purpose of this section.

(3) Upon a person being certificated under this section, he shall thereafter during the time he is a patient be a certificated patient within the meaning of this Act and be subject to the provisions of this Act and the regulations respecting certificated patients. R.S.O. 1937, c. 392, s. 24.

25.—(1) Where an information is laid before a justice of the peace that any person, within the limits of his jurisdiction, is or is suspected or believed by the person laying the information to be mentally ill or mentally defective, the justice of the

Authority to convey and detain.

Examination of destitute person.

Certification of patient in an institution.

Practitioner not to be Departmental officer, etc.

Certificated patient.

Warrant to apprehend mentally ill or mentally defective person.

peace may issue his warrant in the prescribed form to apprehend the person and to cause him to be brought before a magistrate having jurisdiction.

Form of
warrant.

(2) Every such warrant shall be under the hand of the justice of the peace issuing it and may be directed to all or any of the constables or other peace officers of the locality within which the justice has jurisdiction, and shall name or otherwise describe the person against whom the information has been laid, and shall state that information has been laid on oath that the person is mentally ill or mentally defective.

Before
whom
returnable.

(3) The warrant shall order the person to whom it is directed to apprehend the person against whom the information has been laid and to bring him before a magistrate having jurisdiction, in order that inquiry may be made respecting the mental condition of the person and that he may be further dealt with according to law.

Apprehen-
sion without
warrant.

(4) Any person apparently mentally ill or mentally defective and conducting himself in a manner which in a normal person would be disorderly, may be apprehended without a warrant by any constable or peace officer and detained in some safe and comfortable place until the question of his mental condition is determined as prescribed by section 28.

Proceed-
ings on ap-
prehension.

(5) Where the person alleged to be mentally ill or mentally defective has been apprehended under a warrant or in the manner provided in subsection 4, he shall be brought before a magistrate and the magistrate may thereupon by his order in the prescribed form direct that the person be confined in some safe and comfortable place, or in the custody of the constable or other person who apprehended him, or such other safe custody as the magistrate deems fit, until the question of his mental condition is determined. R.S.O. 1937, c. 392, s. 25.

Appoint-
ment of
medical
examiner.

26.—(1) The Minister may appoint one or more legally qualified medical practitioners in any territorial division for the purposes of this section.

Examin-
ation by two
medical
practition-
ers.

(2) Immediately upon the apprehension of an alleged mentally ill or mentally defective person the magistrate before whom he is brought shall notify one of such medical practitioners, if any have been appointed, and one other legally qualified medical practitioner, or if no medical practitioner has been so appointed the magistrate shall notify two legally qualified medical practitioners and shall cause an examination to be made in the manner provided in section 20. R.S.O. 1937, c. 392, s. 26.

27.—(1) The magistrate, in addition to the examination prescribed in section 26, shall hear such evidence upon oath as may be adduced with reference to the mental condition of the alleged mentally ill or mentally defective person and shall direct that inquiry be made as to his friends or relatives in order that the evidence of some person or persons who is or are acquainted with his family and previous habits may be had, and for the purpose of ascertaining whether the alleged mentally ill or mentally defective person is possessed of any and what property, and where the same is situate, and also as to the number of persons, if any, dependent upon him for support, and to elicit as far as possible all information in respect to the matters mentioned in the prescribed form, but if the magistrate finds that such inquiries will be expensive or that sufficient information has been obtained by other means, he shall not be required to make the inquiries by this section directed.

Hearing of evidence, inquiring among friends, etc.

(2) The magistrate may from time to time adjourn the inquiry and again commit the person to custody, as prescribed by subsection 5 of section 25, until proper inquiry is made as directed by this section. R.S.O. 1937, c. 392, s. 27.

Adjournment of inquiry.

28.—(1) If, after reasonable inquiry has been made by the magistrate as herein directed, he is satisfied that the alleged mentally ill or mentally defective person is mentally ill or mentally defective, he shall certify accordingly in the prescribed form.

Magistrate's certificate of mental illness or defect.

(2) If both the medical practitioners making the examination do not agree, or if the magistrate is not satisfied that the person is mentally ill or mentally defective, the magistrate shall forthwith discharge him, or order such further examination as he shall deem expedient, or may remand him to an institution for a period not exceeding sixty days, in which case subsections 2, 3 and 4 of section 35 shall apply *mutatis mutandis*. R.S.O. 1937, c. 392, s. 28.

Discharge or other disposition.

29.—(1) Where a person is found to be mentally ill or mentally defective the magistrate shall immediately transmit to the Deputy Minister his certificate and the certificates of the medical practitioners and copies of the information, warrant and depositions taken before him, accompanied by a written statement of the result of his inquiries as to the financial condition of the mentally ill or mentally defective person and the person or persons legally liable for his maintenance, and as to the other matters mentioned in the prescribed form, so far as ascertained, and giving the present address of the mentally ill or mentally defective person, and the name and address of the person in whose custody he is,

Magistrate's certificate, etc., to be sent to Deputy Minister.

and such further information as he may deem advisable. R.S.O. 1937, c. 392, s. 29 (1); 1941, c. 29, s. 2.

Deputy
Minister's
warrant and
removal to
institution.

(2) The Deputy Minister, on receipt of such documents, shall arrange for the admission of the mentally ill or mentally defective person to an institution and shall issue a warrant in the prescribed form for his transfer thereto. R.S.O. 1937, c. 392, s. 29 (2).

Application
of Rev.
Stat., c. 379.

30. A magistrate in making an inquiry shall have the like authority for compelling the attendance of witnesses as he would have if acting under *The Summary Convictions Act*, and all the provisions of that Act as to procedure shall apply as nearly as may be to proceedings under this Act. R.S.O. 1937, c. 392, s. 30.

Transfer
of patient.

31. The Deputy Minister may, by warrant, transfer a patient from any institution to any other institution. R.S.O. 1937, c. 392, s. 31 (1).

Lieutenant-
Governor's
warrant.

32.—(1) The Lieutenant-Governor, upon evidence satisfactory to him that any person imprisoned in any prison, reformatory, reformatory prison, reformatory school, industrial school or industrial refuge for an offence under the authority of any of the statutes of Ontario, or imprisoned for safe custody charged with an offence, or imprisoned for not finding bail for good behaviour or to keep the peace, is mentally ill, mentally deficient or epileptic, may order the removal of the person to a place of safe keeping, and the person shall remain there, or in such other place of safe keeping as the Lieutenant-Governor from time to time may order, until his complete or partial recovery is certified to the satisfaction of the Lieutenant-Governor, who may then order the person back to imprisonment if then liable thereto, or otherwise to be discharged, provided that where the person is confined in an institution he shall, if and when he is not liable to imprisonment, be subject to the direction of the Minister, or such other person as the Lieutenant-Governor in Council may designate, who may make such orders or directions in respect of the person as he may deem proper.

Record of
sentence
to be sent
to Deputy
Minister.

Rev. Stat.,
c. 273.

(2) Where the Lieutenant-Governor has ordered the removal of a person under subsection 1, a record of the sentence of the person shall be sent to the Deputy Minister by the officer referred to in subsection 1 of section 9 of *The Penal and Reform Institutions Inspection Act*. R.S.O. 1937, c. 392, s. 32.

Warrant
valid not-
withstanding
irregularity
of prior pro-
ceedings.

33. A warrant for the removal of a mentally ill or mentally defective person to an institution may be issued notwithstanding any irregularity or insufficiency in the warrant or order

under which the person is imprisoned or confined or in any of the proceedings before the magistrate. R.S.O. 1937, c. 392, s. 33.

34. Upon its appearing to the Lieutenant-Governor that a mentally ill, mentally defective or epileptic patient detained in an institution has come or been brought into Ontario from elsewhere within thirty days prior to his committal to the institution, the Lieutenant-Governor may, by his warrant, authorize the removal of the person to the province or country from which he has so come or been brought. R.S.O. 1937, c. 392, s. 34. Deportation.

35.—(1) Any person may be admitted to an institution upon the order of a judge or magistrate where the person has been apprehended either with or without warrant and charged with any offence, provided that the order is accompanied by the prescribed history form, and provided also that the order is for a period of not more than sixty days, and any order made under this section shall direct that the person shall be conveyed to the institution most conveniently situated to the place where the order is made. Remand by judge or magistrate.

(2) Before the expiration of the time mentioned in such order, the superintendent shall report in writing as to the mental condition of the person to the judge or magistrate. Superintendent's report.

(3) Where in the opinion of the superintendent the person is mentally ill or mentally defective, he shall direct the examination of the person as provided for by section 24, and if the examining medical practitioners certify the person to be mentally ill or mentally defective, he shall be detained as a certificated patient and shall be subject to all the provisions of this Act and of the regulations respecting certificated patients. Certification.

(4) Where in the opinion of the superintendent the person is neither mentally ill nor mentally defective and where the superintendent has failed to obtain certificates in the prescribed form he shall discharge the person to the custody of the court by which he was ordered to the institution. R.S.O. 1937, c. 392, s. 35. Return of patient to court.

PROBATION

36.—(1) If the superintendent considers it conducive to the recovery of any patient that the patient should be committed for a time to the custody of his family or friends, the superintendent may allow him to return on probation to them upon receiving a written undertaking in the prescribed form by one or more of his family or friends that he or they will keep an oversight over him. R.S.O. 1937, c. 392, s. 36 (1). Probation.

Return
from
probation.

(2) If within six months from the release on probation the patient again becomes mentally ill or defective to such a degree that his confinement in an institution is necessary, the superintendent by whom he was released on probation or the Deputy Minister, may by warrant in the prescribed form directed to any constable or peace officer or other person, authorize and direct that the patient be apprehended and brought back to an institution, and the warrant shall be an authority to any one acting under it to apprehend the person named therein and to bring him back to an institution. R.S.O. 1937, c. 392, s. 36 (2); 1938, c. 20, s. 2.

Patients
liable to
imprison-
ment.

(3) No person admitted to an institution on the warrant of the Lieutenant-Governor shall be released on probation unless the Deputy Minister has certified to the superintendent that the person is no longer liable to be returned to imprisonment. R.S.O. 1937, c. 392, s. 36 (3).

Application
of the
Act to
probationers.

37. Any person who has been admitted to an institution and who is released on probation therefrom, shall for the purposes of this Act and the regulations for a period of six months from the date of the release or until he is discharged be and be deemed to continue as a patient in the institution in the same manner and to the same extent and be subject to the same control as if he were not so released but had remained in the institution. R.S.O. 1937, c. 392, s. 37; 1938, c. 20, s. 3.

APPROVED HOMES

Certificate
for approved
home.

38. The Minister may issue certificates approving of any building, premises or place as an approved home for the reception of patients who are released from an hospital or hospital school into the custody of such home and entitling any person to receive into the approved home one or more patients as if such home had been established as an hospital under this Act. R.S.O. 1937, c. 392, s. 38.

Release of
patients to
approved
homes.

39.—(1) If the superintendent considers it conducive to the recovery of any patient, the superintendent may place the patient in an approved home, subject to this Act and the regulations.

Condition
precedent to
placing.

(2) No person admitted to an institution on the warrant of the Lieutenant-Governor shall be placed in an approved home unless the Deputy Minister has certified to the superintendent that the person is no longer liable to be returned to imprisonment. R.S.O. 1937, c. 392, s. 39.

Application
of the Act
to patients
in approved
homes.

40. Any patient admitted to an institution who is placed in an approved home shall for the purposes of this Act and

the regulations be and be deemed to continue as a patient in the institution in the same manner and to the same extent and be subject to the same control as if he were not so released but had remained in the institution. R.S.O. 1937, c. 392, s. 40.

DISCHARGE

41.—(1) A voluntary patient shall be discharged from the institution in which he is a patient, Voluntary patients.

- (a) when in the opinion of the superintendent it is in the interest of the patient or of the hospital that he be discharged; or
- (b) for admission to a sanitarium which is subject to *The Private Sanitaria Act*; or Rev. Stat., c. 290.
- (c) in accordance with the conditions upon which he was admitted.

(2) A voluntary patient may be discharged when default is made in payment of his maintenance. R.S.O. 1937, c. 392, s. 41. Idem.

42. A certificated patient shall be discharged from the institution in which he is a patient, Certificated patients.

- (a) when in the opinion of the superintendent he is sufficiently recovered; or
- (b) when, although not recovered, he may be admitted to a sanitarium which is subject to *The Private Sanitaria Act*. R.S.O. 1937, c. 392, s. 42. Rev. Stat., c. 290.

43.—(1) Any patient who has been admitted to an institution on the warrant of the Lieutenant-Governor or the Deputy Minister shall be discharged from the institution in which he is a patient, Lieutenant-Governor's and Deputy Minister's warrant patients.

- (a) when in the opinion of the superintendent he is sufficiently recovered; or
- (b) when, although not recovered, he may be admitted to a sanitarium which is subject to *The Private Sanitaria Act*. Rev. Stat., c. 290.

(2) The superintendent shall not discharge any person under this section unless the Deputy Minister has certified to the superintendent that the person is no longer liable to imprisonment. R.S.O. 1937, c. 392, s. 43. Condition precedent to discharge.

44. The Deputy Minister may, upon the report of an inspector, direct that any patient in an institution whose Removal of patients to homes for the aged

mental condition is due to senility and whose conduct is recorded as quiet and harmless and who is a proper subject for care in a home for the aged, be discharged from the institution and placed in a home for the aged in the county in which he was a resident at the time of admission to the institution and the superintendent of the home for the aged shall admit the person and maintain him therein. R.S.O. 1937, c. 392, s. 44, *amended*.

ESCAPE AND APPREHENSION

Apprehension of escaped patients.

45.—(1) Any patient admitted to an institution who escapes therefrom or who, contrary to this Act or the regulations, leaves or is taken away or removed therefrom may be apprehended at any time within sixty days from the day of his escape by any peace officer, police officer or constable or any person appointed by the superintendent or the Deputy Minister either without a warrant or upon a warrant in the prescribed form issued by the Deputy Minister or the superintendent. R.S.O. 1937, c. 392, s. 45 (1); 1945, c. 12, s. 1.

Detention pending return to institution.

(2) Any patient upon his apprehension under subsection 1 shall be taken to and confined in any place of detention and from thence and as speedily as possible be returned to an institution. R.S.O. 1937, c. 392, s. 45 (2).

PART V

HABITUES

Voluntary admission.

46.—(1) The superintendent of an institution may receive and detain therein as a patient, any habitue for care and treatment who voluntarily makes written application in the prescribed form, provided that in the opinion of the superintendent he is, at the time of his admission, capable of appreciating the fact that he is to be admitted as a voluntary patient.

Time of detention.

(2) Subject to section 24, such habitue may be detained in the institution for a period of one year and no longer, and it shall be a condition of his admission to the institution that he shall remain therein such length of time not exceeding one year as in the opinion of the superintendent is required, and before admission is awarded he shall sign a pledge agreeing and consenting to such specified condition, and to faithfully conform himself to all the rules and regulations of the institution while an inmate thereof. R.S.O. 1937, c. 392, s. 46.

Commitment on judge's order.

47.—(1) On petition verified by oath, presented to a judge in chambers of the county or district court of the county or

district in which the alleged habitue resides, setting forth that the alleged habitue is a *bona fide* resident of Ontario, and is so given over to the use of alcohol or drugs that he is unable to control himself or is incapable of managing his affairs or squanders or mismanages his property, or places his family in danger of distress, or transacts his business prejudicially to the interests of his family or his creditors, or that he uses drugs or intoxicating liquors to such an extent as to render him dangerous to himself or others, or incurs the danger of ruining his health and shortening his life thereby, and praying that a hearing and examination of the matters and allegations set forth in the petition may be had, the judge shall direct that a copy of the petition, together with a notice of appointment in the prescribed form, shall be served upon the alleged habitue at least forty-eight hours before the time fixed for the hearing.

(2) Such petition may be made by any relatives, whether by blood or affinity, or, if he has no relatives in Ontario by any friend of the alleged habitue or by the family medical attendant. R.S.O. 1937, c. 392, s. 47. Who may petition.

(3) The judge shall attend at the time and place named in the appointment and then and there proceed upon *viva voce* evidence to inquire into the matters and allegations set forth in the petition, and whether or not the alleged habitue is in attendance or is represented may proceed to inquire into the matters and allegations set forth in the petition provided that service of the appointment and a copy of the petition as required by subsection 1 is proven and he may in his discretion adjourn the inquiry from time to time. R.S.O. 1937, c. 392, s. 48 (1); 1943, c. 13, s. 1. Inquiry.

(4) Where at the time that service of the appointment and of the copy of the petition is sought to be served, the alleged habitue is confined in an institution under section 49 and is in the opinion of the superintendent suffering from the effects of alcohol or drugs to such a degree that he is incapable of appreciating the nature of such documents or is unable to attend before the judge on the return of the appointment, the superintendent shall report such facts to the judge in writing and the judge may, where he deems it expedient to do so, proceed with the inquiry in the absence of the alleged habitue. Where person petitioned against cannot appear.

(5) Where any such alleged habitue is detained in an institution under section 49, the judge may order that the person be there detained until a date not later than ten days after the completion of the inquiry. R.S.O. 1937, c. 392, s. 48, (2, 3). Where the person is detained in an institution.

(6) The judge shall have the same powers as to summoning witnesses, enforcing their attendances and the production of Powers of judge.

documents as in proceedings in the county or district court, and each party may retain counsel to conduct the proceedings and to examine witnesses. R.S.O. 1937, c. 392, s. 49.

Judge's
report.

(7) If the judge upon such inquiry finds the person petitioned against to be an habitue, and so given over to the use of alcohol or drugs as to render him unable to control himself and incapable of managing his affairs, or that on that account he squanders or mismanages his property, or places his family in danger of distress, or transacts his business prejudicially to the interests of his family or his creditors, or that he uses drugs or intoxicating liquors to such an extent as to render him dangerous to himself and others, or incurs the danger of ruining his health or shortening his life, the judge shall forthwith report the fact to the Deputy Minister, including in the report a statement that service as required by subsection 1 has been made, and with the report shall transmit the evidence taken accompanied by a written statement of the result of his inquiries as to the financial condition of the habitue, and the person or persons legally liable for his maintenance and giving the present address of the habitue and the name and address of the person in whose custody he is, and the names and addresses of such persons, if any, dependent upon him for support. R.S.O. 1937, c. 392, s. 50 (1); 1943, c. 13, s. 2.

Hearing of
evidence.

(8) For the purposes aforesaid, the judge shall hear such evidence upon oath and may require that some person or persons who is or are acquainted with his family and previous habits be heard for the purpose of ascertaining whether the habitue is possessed of any and what property, and where it is situated, and also as to the number of persons, if any, dependent upon him for support. R.S.O. 1937, c. 392, s. 50 (2).

Deputy
Minister's
warrant.

(9) Upon receipt of the report and evidence the Deputy Minister may by warrant direct the removal of the habitue to an institution to be placed under treatment and detained therein for a period not exceeding two years.

Detention
pending
removal to
institution.

(10) The judge may order that the habitue be confined in some safe and comfortable place, or such other custody as the judge deems fit until such time as he may be removed to an institution. R.S.O. 1937, c. 392, s. 51.

Temporary
commit-
ment by two
medical
practition-
ers.

48.—(1) Any person who is suffering from the effects of alcohol or drugs may be admitted to an institution and detained therein for a period not to exceed thirty days on the certificates of two medical practitioners in the prescribed form accompanied by the prescribed history form.

Form of
medical
certificate.

(2) Every such certificate shall state and show clearly that the medical practitioner signing it personally examined such

person and as a result of such examination and of information communicated to him by other persons is of opinion that such person is suffering from the effects of alcohol or drugs to such a degree as to require hospital care.

(3) Each medical practitioner shall also in such certificate state the facts upon which he has formed his opinion, distinguishing the facts observed by him from the facts communicated to him by others, and every such certificate shall be signed in the presence of one subscribing witness and shall show the date upon which the examination was made. Contents.

(4) No person shall be admitted as an habituate patient upon any such certificate except within three days of the examination referred to therein. R.S.O. 1937, c. 392, s. 52, *amended*. Limitation of certificate.

49. The certificates when accompanied by the prescribed history form shall be sufficient authority for any one to convey such person to an institution, provided that permission, either verbally or in writing for such admission has been obtained from the Deputy Minister or the superintendent, and shall be sufficient authority for the superintendent to detain the person named therein. R.S.O. 1937, c. 392, s. 53. Authority to convey and detain.

50. The superintendent of an institution shall have full authority to discharge any patient who has been admitted to the institution as an habitue, Discharge of habitues.

- (a) when in the opinion of the superintendent he is sufficiently recovered; or
- (b) when it is in the interest of the patient or of the hospital that he be discharged; or
- (c) for admission to a sanitarium which is subject to *The Private Sanitaria Act*; or Rev. Stat., c. 290.
- (d) when default is made in payment of his maintenance. R.S.O. 1937, c. 392, s. 54.

51. Sections 23, 24, 31, 36 to 40, 44 and 45 shall apply *mutatis mutandis* to habitues. R.S.O. 1937, c. 392, s. 55. Provisions applicable to habitues.

PART VI

EPILEPTICS

52. The provisions of this Act relating to mentally ill persons shall apply *mutatis mutandis* to any person who is an epileptic. 1940, c. 28, s. 19 (2). Application of Act to epileptics.

PART VII

EXAMINATION UNITS

Certificates
of approval.

53. The Minister may issue certificates approving of any building, premises or place, or part of any building, premises or place including any part of any hospital or hospital school as an examination unit. R.S.O. 1937, c. 392, s. 59.

Admission
of patients
on medical
certificate.

54.—(1) Any person who is or is believed to be in need of the observation, care and treatment provided in an examination unit may be admitted thereto for a period not exceeding thirty days with the permission of the Deputy Minister or superintendent, on the certificate of one medical practitioner in the prescribed form accompanied by the prescribed history form.

Authority
to convey
and detain.

(2) Such certificate shall be sufficient authority to any person to convey the person named therein to the examination unit and to the authorities of the examination unit for his detention therein. R.S.O. 1937, c. 392, s. 60.

Limit of
stay in
examination
unit.

55. No patient shall remain in an examination unit for a period in excess of thirty days, provided that the Deputy Minister shall have authority to extend the period for an additional sixty days in the case of any patient other than a patient who has been admitted under section 54. R.S.O. 1937, c. 392, s. 61.

Disposal of
patients.

56.—(1) Where a person has been admitted to and is a patient in an examination unit under section 54, he shall be discharged, or certificated under section 24, as the needs of his case may require.

Certificated
patients,
removal of.

(2) Where a person has been so certificated he shall be transferred to an hospital or hospital school and he shall thereafter be subject to this Act and the regulations with respect to patients in an hospital or hospital school. R.S.O. 1937, c. 392, s. 62.

PART VIII

LIABILITIES OF MUNICIPALITIES, MAINTENANCE, PROPERTY

Liability of
municipality.

57.—(1) The necessary costs and expenses incurred under sections 23 to 29 and section 35 in determining the mental condition of any person including a fee not exceeding \$5 and a travelling allowance of ten cents per mile of each medical practitioner who issues a certificate in respect of the person and the necessary expenses incurred in conveying the person

to and from an institution shall be paid by the municipality from which the person came or was sent to an institution.

(2) Where the person is not in destitute circumstances the costs and expenses may be recovered by the municipality from his estate or from him or the person liable for his maintenance.

Recovery from estate, etc.

(3) Subject to subsection 2 where such costs and expenses are paid by a municipality in which the person did not actually reside at the time of his admission to an institution, they may be recovered by the municipality paying them from the municipality in which the person actually resided at the time of admission to an institution.

Recovery from municipality where patient resided.

(4) Such costs and expenses shall be reimbursed to the municipality by the county where the municipality paying the same is a part of the county for municipal purposes. R.S.O. 1937, c. 392, s. 63.

Reimbursement.

58.—(1) Where the Deputy Minister has reason to believe that any mentally ill, mentally defective or epileptic person has been or may be deported into Ontario from any place without Ontario, the Deputy Minister may issue a warrant in the prescribed form for the apprehension of the person and for his conveyance to an institution and for his admission and detention as a patient therein.

Persons deported into Ontario.

(2) The warrant shall be sufficient authority to any person to apprehend the person named therein and to convey him to an institution and to the authorities thereof to admit and detain him as a patient therein for a period not exceeding thirty days.

Apprehension.

(3) Within thirty days after the admission of any patient in accordance with this section, two medical practitioners who may be officers of the Department shall examine the patient and if they certify the patient to be mentally ill, mentally defective or epileptic he shall be detained as a certificated patient and shall be subject to all the provisions of this Act and of the regulations respecting certificated patients.

Examination of patient.

(4) Where in the opinion of the examining practitioners the patient is not mentally ill, mentally defective or epileptic, the superintendent shall discharge the patient from the institution. R.S.O. 1937, c. 392, s. 64.

Discharge.

59.—(1) Section 46 of *The Corporations Tax Act* shall apply to any institution within the meaning of this Act except the Ontario Hospital, Woodstock. R.S.O. 1937, c. 392, s. 65 (1); 1943, c. 13, s. 3.

Liability of municipality for maintenance. Rev. Stat., c. 72.

Ontario
Hospital,
Woodstock.

(2) Every municipality shall be liable in the amount of fifty cents per day, including the day of admission and of discharge, for the maintenance of every indigent patient in the Ontario Hospital, Woodstock, who resided in such municipality at the time of his admission to the hospital. R.S.O. 1937, c. 392, s. 65 (2).

Inquiry
regarding
estate.

60.—(1) Upon due application for the admission of any person the superintendent and steward of the institution shall make a full and thorough inquiry respecting the estate, either in existence or in prospect, of the person and of its sufficiency, free from all claims of his family, to supply the means necessary for his maintenance and clothing in the institution as provided by the regulations.

Bond
for main-
tenance.

(2) The superintendent and steward shall where possible require from the person liable for maintenance of the patient an agreement or bond to secure the payment of the patient's maintenance, either in whole or in part, and the agreement or bond shall continue in force so long as the patient is maintained in any institution.

Liability
limited.

(3) Where the obligation is for a limited period nothing herein shall extend the liability beyond the period limited.

Liability of
patient's
estate.

(4) The giving of an agreement or bond shall in no way release the estate of the patient from its obligation to maintain and clothe him in the institution as hereinafter provided. R.S.O. 1937, c. 392, s. 66.

Patient's
liability.

61. Every patient admitted to an institution who has at the time of his admission or subsequently comes into the possession of property shall be liable for his maintenance. R.S.O. 1937, c. 392, s. 67.

Liability for
married
women.

62. Every person whose wife is a patient shall be liable for the maintenance of such patient. R.S.O. 1937, c. 392, s. 68.

Liability
for child.

63. A parent shall be liable for the maintenance of his child who is a patient. R.S.O. 1937, c. 392, s. 69.

Notice of
liability.

64.—(1) The steward of an institution shall send a written notice on the first day of each of the months of January, April, July and October to the person liable for payment of the maintenance of a patient, giving the date of the patient's admission to the institution and the amount which is due and owing for his maintenance as provided by the regulations, and in the notice a demand shall be made by the steward upon the person liable for payment of maintenance for such sum as may be due and owing and the sum shall be paid forthwith on the demand. R.S.O. 1937, c. 392, s. 70.

(2) In any action or other proceeding to recover any sum owing by any person, municipal corporation or the estate of any person for the maintenance of any patient it shall be sufficient to prove that the steward sent the notice and demand for payment referred to in subsection 1 within the three months preceding the commencement of the action or other proceeding and no proof shall be required that any prior notices or demands for payment were sent. 1938, c. 20, s. 6.

Proof of notice and demand for payment.

65.—(1) In case of refusal or neglect to pay the sum so demanded, the Deputy Minister or any officer whom he may designate may apply to a judge of the county or district court of the county or district in which the person liable to pay resides for an order for the payment of the amount then due.

Application order for payment of maintenance.

(2) Ten days notice of the application shall be given.

Notice.

(3) If the judge is satisfied that the person against whom the application is made is liable he may make an order accordingly, and the order may be enforced in the same manner as a judgment of the court. R.S.O. 1937, c. 392, s. 71.

Judge's order.

66. Except as otherwise provided in this Part, the Public Trustee shall be *ex officio* the committee of the estate of every patient admitted to an institution until he is discharged therefrom. R.S.O. 1937, c. 392, s. 72.

Public Trustee *ex officio* committee.

67. If prior to or at the time any person is admitted as a patient in an institution the Supreme Court under *The Mental Incompetency Act* has appointed some person other than the Public Trustee to be the committee of the estate of the person, the Public Trustee shall not in such case be the committee unless he is subsequently appointed as such by the Supreme Court. R.S.O. 1937, c. 392, s. 73.

Where committee appointed by Supreme Court. Rev. Stat., c. 230.

68. Notwithstanding that under *The Mental Incompetency Act* some person other than the Public Trustee has been appointed by the Supreme Court as the committee of the estate of a patient in an institution, the Supreme Court may at any time upon the application of the Public Trustee appoint him as committee in the place and stead of the person theretofore appointed, and on appointment the Public Trustee shall have and may exercise all the rights and powers conferred upon him by this Act with regard to the management of patients' estates. R.S.O. 1937, c. 392, s. 74.

Appointment of Public Trustee instead of committee under *The Mental Incompetency Act*. Rev. Stat., c. 230.

69. The Public Trustee shall not be the committee of the estate of a voluntary patient, or an habituate patient until such patient remains as a patient in an institution for a period of not less than three months, unless prior to the expiration of

When Public Trustee is committee for voluntary and habituate patient.

such period the patient by writing under seal signed by him appoints the Public Trustee as committee or the Public Trustee is appointed as committee by the Supreme Court. R.S.O. 1937, c. 392, s. 75.

Appointment
of com-
mittee by
Supreme
Court.
Rev. Stat.,
c. 230.

70. If the Supreme Court at any time appoints a committee of the estate of any patient under *The Mental Incompetency Act* the Public Trustee shall thereupon cease to be committee, and shall account for and transfer to the committee so appointed the estate of the patient which has come into his hands, retaining however so much as may be due for the maintenance of the patient. R.S.O. 1937, c. 392, s. 76.

Consent of
Public
Trustee.

71. An order shall not be made for the appointment of a committee of any patient in an institution without the consent of the Public Trustee, unless five days notice has previously been given to him. R.S.O. 1937, c. 392, s. 77.

Acts of
Public
Trustee not
affected.

72. The acts of the Public Trustee while committee of a patient shall not be rendered invalid by the making of an order appointing another committee. R.S.O. 1937, c. 392, s. 78.

When
service of
process to
be made on
Public
Trustee.

73. When an action or proceeding is brought or taken against any patient in an institution for whom a committee has not been appointed by the Court and such action or proceeding is in connection with the estate of such person, the writ or other document by which the proceedings are commenced and any other document requiring personal service shall be served upon the Public Trustee endorsed with a written statement of the name of the institution in which the patient is detained, and shall also be served upon the patient unless in the opinion of the superintendent of the institution personal service upon the patient would cause serious harm to him by reason of his mental condition, in which case it shall also be served upon the superintendent. R.S.O. 1937, c. 392, s. 79.

Powers of
Public
Trustee.

74. The Public Trustee as statutory committee of a patient shall have and may exercise all the rights and powers with regard to the estate of the patient that the patient would have if of full age and of sound and disposing mind. R.S.O. 1937, c. 392, s. 80.

Recitals in
documents.

75. Any recital in a lease, mortgage or conveyance that the patient is in an institution and that the Public Trustee is his statutory committee shall be *prima facie* evidence of the facts recited. R.S.O. 1937, c. 392, s. 81.

76. The powers conferred upon the Public Trustee as statutory committee of the estate of a patient may be exercised, Purposes for which powers of Public Trustee may be exercised.

- (a) notwithstanding that the patient is released upon probation or is placed in an approved home;
- (b) to carry out and complete any transaction entered into by the patient before he became a patient in an institution;
- (c) to carry out and complete any transaction entered into by the statutory committee notwithstanding that the patient may have been discharged or may have died after the transaction was commenced. R.S.O. 1937, c. 392, s. 82.

77. The costs, charges and expenses of the Public Trustee and any money advanced by him for the patient or for the maintenance of the patient's family shall be a charge upon the property of the patient, and the Public Trustee may register a certificate under his hand and seal of office giving notice of any lien claimed and the property against which it is claimed in any registry office or land titles office. R.S.O. 1937, c. 392, s. 83. Costs and charges of Public Trustee.

78. Every gift, grant, alienation, conveyance or transfer of property made by any person who is or becomes a patient in an institution shall be deemed to be fraudulent and void, as against the statutory committee, if the same is not made for full and valuable consideration actually paid or sufficiently secured to such person, or if the purchaser or transferee had notice of his mental condition. R.S.O. 1937, c. 392, s. 84. When gifts, grants, etc., deemed fraudulent.

79. Upon the death of any patient the Public Trustee may, until probate of the will or letters of administration to the estate of the patient is granted to some other person and notice is given to the Public Trustee, continue to manage the estate and may exercise with respect thereto the powers which an executor would have if the property were devised or bequeathed to him in trust for payment of debts and distribution of the residue. R.S.O. 1937, c. 392, s. 85. Case of death of patient.

80. The Public Trustee shall be liable to render an account as to the manner in which he has managed the property and effects of the patient in the same way and subject to the same responsibility as any trustee, guardian or committee duly appointed for a similar purpose may be called upon to account, and shall be entitled from time to time to bring in and pass his accounts and tax costs in like manner as a trustee but shall be personally liable only for wilful misconduct. R.S.O. 1937, c. 392, s. 86. Accounting by Public Trustee.

Compensation of Public Trustee.

81. For the services rendered by the Public Trustee as committee of a patient, he may be allowed compensation not exceeding the amount which a trustee would be allowed for like services, but in cases of poverty or hardship the Public Trustee may forego any claim for compensation. R.S.O. 1937, c. 392, s. 87.

Relief of Public Trustee on discharge of patient.

82. When a person discharged from an institution may not in the opinion of the Public Trustee based upon the report of the superintendent of the institution be competent to manage his affairs and the Public Trustee has in his hands property of such person as committee under this Act, he may apply to the Supreme Court for directions as to the disposal of such property, and the Court may give such orders and directions in the premises as it may deem just. R.S.O. 1937, c. 392, s. 88.

Payment of charges for maintenance of patient.

83. The Public Trustee shall, out of the money in his hands belonging to a patient for whom he is statutory committee, pay the proper charges for his maintenance in the institution in which he is a patient, and he may also pay such sums as he may deem advisable to the patient's family or other person dependent upon him, and the payments for the maintenance of the family and other dependents may be made notwithstanding that such payments may prevent the payment of maintenance which otherwise would be due from the patient. R.S.O. 1937, c. 392, s. 89.

Payment of money out of court.

84. If there is any money in court to the credit of a patient it shall be paid out to the Public Trustee upon his written application, and it shall not be necessary to obtain an order of the court or a judge for such purpose. R.S.O. 1937, c. 392, s. 90.

Statutory duty.

85. Nothing in this Act shall make it the duty of the Public Trustee to institute proceedings on behalf of a patient or to intervene in respect of his estate. R.S.O. 1937, c. 392, s. 91.

Administrator for Manitoba may be appointed committee in Ontario.

86.—(1) The Lieutenant-Governor in Council may appoint the Administrator of Estates of Insane Persons for the Province of Manitoba to be committee of the estate in Ontario of any person who is detained as a patient in a provincial institution for mentally ill, mentally defective or epileptic persons in Manitoba.

Saskatchewan.

(2) The Lieutenant-Governor in Council may appoint the Administrator of Estates of the Mentally Incompetent of the Province of Saskatchewan to be the committee of the estate in Ontario of any person who is detained as a patient in a provincial institution for mentally ill, mentally defective or epileptic persons in Saskatchewan.

(3) The Order in Council making any such appointment shall be conclusive proof that all conditions precedent necessary to the appointment have been fulfilled.

Order in Council conclusive as to appointment.

(4) The appointee under any such Order in Council shall possess the same rights, powers, privileges and immunities as are conferred by this Act upon the Public Trustee, and he shall be subject to the same obligations and shall perform the same duties. R.S.O. 1937, c. 392, s. 92.

Powers of administrator in Ontario.

PART IX

MENTAL HEALTH CLINICS

87. Subject to the provisions of this Act and the regulations the Department shall have power and authority to establish clinics known as "Mental Health Clinics." R.S.O. 1937, c. 392, s. 93.

Establishment.

88. The Minister shall have authority to appoint an officer who shall be a duly qualified medical practitioner to be in charge of each clinic with such title as the Minister may designate. R.S.O. 1937, c. 392, s. 94.

Officer in charge.

89. The staff of each clinic, in addition to the officer designated in section 88, shall consist of an assistant trained in psychology, an assistant trained in social service, and such other assistants as may be provided for by the regulations. R.S.O. 1937, c. 392, s. 95.

Staff.

90. All salaries, remuneration and expenses of the clinics and of their officers, clerks and servants shall be paid out of the Consolidated Revenue Fund upon the certificate of the Minister or of an officer of the Department designated by him for the purpose. R.S.O. 1937, c. 392, s. 96.

Expenses.

91. Subject to the direction of the Deputy Minister, a mental health clinic may do any act or perform such services which by law the Department is permitted or authorized to do. R.S.O. 1937, c. 392, s. 97.

Powers of clinics.

92. Notwithstanding section 91, a mental health clinic shall have authority to conduct an examination of the physical and mental condition of,

Authority to conduct examinations.

- (a) any person, other than an infant, who may apply for examination; and
- (b) any infant, upon the verbal or written request of his parent; and

- (c) any person who may be sent by an organization approved by the Deputy Minister, provided the person has first given his consent to examination; and
- (d) any person on the order of a magistrate. R.S.O. 1937, c. 392, s. 98.

Examination
of pupils.

93.—(1) Subject to this section, a mental health clinic shall have authority to conduct an examination of the physical and mental condition of any or all pupils of any elementary or secondary school other than a private school and including any public, separate, continuation, vocational or high school.

Request of
board of
trustees,
etc.,
necessary.

(2) Such examination shall be conducted only on the request in writing of the board of public school trustees, board of separate school trustees, board of education, or other board having control of the school in which the examination is requested to be conducted.

Consent
of parent.

(3) The consent in writing of the parent for such examination must first be obtained, provided that a consent for medical examination according to *The Public Schools Act* and regulations shall be consent for the purposes of this section.

Rev. Stat.,
c. 316.

Report of
examination
of pupils.

(4) The officer in charge of the clinic shall report the results of an examination under this section to the Minister of Education and to the Minister of Health, and the officer may report such results to the parent. R.S.O. 1937, c. 392, s. 99.

Where
examination
to be held.

94.—(1) Examinations under this Part may be conducted in any place which the officer in charge of the clinic deems expedient.

May be
held in
schools.

(2) Examinations under section 93 may be conducted in any of the schools referred to therein, at such time or times as the person in charge of the school designates as convenient. R.S.O. 1937, c. 392, s. 100.

Authority
to give
advice.

95. Subject to the direction of the Minister, a mental health clinic upon the request of any person, body, group, organization or corporation shall have authority to give advice on matters pertaining to mental health and mental disease or matters reasonably ancillary thereto. R.S.O. 1937, c. 392, s. 101.

Report of
examination.

96. The officer in charge of the mental health clinic may report the results of an examination under section 92 to,

- (a) the Department;
- (b) the person examined;
- (c) any person or organization upon whose order or request the examination was undertaken;

- (d) any person who, in the opinion of such officer, has a *bona fide* interest in the person examined,

and, subject to this section, the records of any mental health clinic shall not be open to public inspection. R.S.O. 1937, c. 392, s. 102.

PART X

AGREEMENT BETWEEN ONTARIO AND CANADA

97.—(1) The Lieutenant-Governor in Council may authorize an agreement with His Majesty the King in right of Canada represented by the Minister of Veterans Affairs or the minister of such other department of the Government of Canada as may from time to time be charged with the care and treatment of insane, epileptic, mentally ill or mentally defective former members of His Majesty's naval, military or air forces or other persons who are eligible for treatment under *The Department of Veterans Affairs Act* (Canada) whereunder the said department shall, subject to regulations not inconsistent with this Act appended to and forming part of the agreement, establish, operate, maintain, control and direct, in Ontario, institutions within the meaning of this Act, for the care, treatment and detention of such former members of the forces and others eligible for treatment under *The Department of Veterans Affairs Act* (Canada) and who are insane, or epileptic, or who are mentally ill or mentally defective, within the meaning of this Act and to authorize such alterations in or amendments to such agreement as may from time to time appear necessary or desirable. 1948, c. 54, s. 1.

Agreement
authorized.
1944-45,
c. 19 (Can.).

(2) Any regulations adopted by the parties to any such agreement shall have the same force and effect as if enacted in this Act.

Regulations.

(3) Without limiting the generality of subsection 1 the authority to adopt regulations shall extend to and include,

Idem.

- (a) regulating the admission, commitment and detention of such members to such institutions, notwithstanding any provision to the contrary in any Act of the Legislature dealing with the care, treatment or detention of insane, epileptic, mentally ill or mentally defective persons, and for greater certainty but not so as to restrict the generality of the foregoing terms, the Lieutenant-Governor in Council may exempt the said department from such of the provisions of the said Acts as he may deem inapplicable and may authorize the said department by its officers or servants to do such acts and things as by any Act of

the Legislature dealing with the care, treatment or detention of insane, epileptic, mentally ill or mentally defective persons are required or authorized to be done by officers or servants of Ontario or by a justice or justices of the peace or other judicial authority;

- (b) regulating the care, treatment, maintenance, conduct, discipline, custody, transfer, probation, release, discharge and apprehension in such institutions of persons the care, treatment or detention of which is the subject matter of such agreement;
- (c) prescribing the forms relating to such persons and to their admission to, maintenance in and release or discharge from such institutions and all other forms required for the carrying out of this Act and such agreement;
- (d) the transfer of any such member from any place without Ontario to any other place without Ontario and from any place within Ontario to any place without Ontario and from any place without Ontario to any place within Ontario during the passage of such member through Ontario;
- (e) generally, the control of all matters the subject matter of such agreement. R.S.O. 1937, c. 392, s. 104.

Detention
under other
authority
not invalid.

(4) The detention of any such member by the said Minister by virtue of and in accordance with any authority conferred by any Act of the Legislature or agreement with the Government of Ontario shall be deemed to be legal and valid notwithstanding anything in this Act. R.S.O. 1937, c. 392, s. 105.

Committee.

98. The Public Trustee shall be *ex officio* committee of the estate of every patient who has no other committee and who is detained in an institution under this Part, and sections 66 to 86 shall apply to the institutions under this Part and the patients therein. R.S.O. 1937, c. 392, s. 106.

CHAPTER 230

The Mental Incompetency Act

1. In this Act,

Interpreta-
tion.

- (a) "contingent right", as applied to land, includes a contingent and an executory interest; a possibility coupled with an interest whether the object of the gift or limitation or such interest or possibility is or is not ascertained, and a right of entry whether immediate or future and whether vested or contingent; Imp. Act, 53-54 Vict., c. 5, s. 341.
- (b) "convey" and "conveyance", applied to any person, mean the execution by such person of every necessary or suitable assurance for conveying or disposing to another land whereof such person is seised, or in which he is entitled to a contingent right, either for the whole estate of the person conveying or for any less estate, together with the performance of all formalities required by law to the validity of such conveyance;
- (c) "court" means the Supreme Court;
- (d) "land" includes messuages, tenements, and hereditaments, corporeal and incorporeal of every tenure or description, whatever may be the estate or interest therein, and whether entire or undivided;
- (e) "mentally incompetent person" means a person,
 - (i) in whom there is such a condition of arrested or incomplete development of mind, whether arising from inherent causes or induced by disease or injury, or
 - (ii) who is suffering from such a disorder of the mind,
 that he requires care, supervision and control for his protection and the protection of his property;
- (f) "mental incompetency" means the condition of mind of a mentally incompetent person;
- (g) "mortgage" includes every interest or property in real or personal estate which is a security for money or money's worth; Imp. Act, 53-54 Vict., c. 5, s. 341.

- (h) "possessed" is applicable to any vested estate less than a life estate at law or in equity, in possession or in expectancy in any land;
- Imp. Act,
54-55 Vict.,
c. 65, s. 28.
- (i) "seised" is applicable to any vested interest for life or of a greater description, and extends to estates at law and in equity in possession or in futurity in any land;
- Imp. Act,
53-54 Vict.,
c. 5, s. 341.
- (j) "stock" includes shares and any fund, annuity or security transferable in books kept by any company or society, or by instrument of transfer alone, or by instrument of transfer accompanied by other formalities, and any share or interest therein, and also shares in ships registered under the Acts relating to merchant shipping;
- Imp. Act,
53-54 Vict.,
c. 5, s. 341.
- (k) "trust" and "trustee" include implied and constructive trusts and cases where the trustee has some beneficial interest, and also the duties incident to the office of personal representative of a deceased person, but not the duties incident to an estate conveyed by way of mortgage. R.S.O. 1937, c. 110, s. 1.

JURISDICTION OF COURT

Powers of
the court.
Rev. Stat.,
c. 229.

2.—(1) Subject to *The Mental Hospitals Act*, the court shall have all the powers, jurisdiction and authority of His Majesty over and in relation to the persons and estates of mentally incompetent persons, including the care and the commitment of the custody of mentally incompetent persons and of their persons and estates.

Orders of
court.

(2) The court may make orders for the custody of mentally incompetent persons and the management of their estates, and every such order shall take effect as to the custody of the person immediately, and as to the custody of the estate upon the completion of the committee's security. R.S.O. 1937, c. 110, s. 2.

Exercise of
powers.

3. The powers conferred by this Act upon the court may be exercised by a judge thereof in chambers. R.S.O. 1937, c. 110, s. 3.

Delegation
of powers.

4. The court may delegate to a master, official referee or other officer all or any of the powers of the court under this Act, except the making of a declaration of mental incompetency. R.S.O. 1937, c. 110, s. 4.

DECLARATION OF MENTAL INCOMPETENCY

5.—(1) The court upon application supported by evidence may by order declare a person a mentally incompetent person if the court is satisfied that the evidence establishes beyond reasonable doubt that he is a mentally incompetent person. Declaration of mental incompetency.

(2) The application may be made by the Attorney-General, by any one or more of the next of kin of the alleged mentally incompetent person, by his or her wife or husband, by a creditor, or by any other person. By whom application to be made.

(3) The alleged mentally incompetent person and any person aggrieved or affected by the order shall have the right to appeal therefrom. Appeal.

(4) The practice and procedure on the appeal shall be the same as on an appeal from an order made by a judge of the court. Procedure. R.S.O. 1937, c. 110, s. 5.

6.—(1) Where in the opinion of the court the evidence does not establish beyond reasonable doubt the alleged mental incompetency, or where for any other reason the court deems it expedient so to do, instead of making an order under subsection 1 of section 5, the court may direct an issue to try the alleged mental incompetency. Issue to try the alleged mental incompetency.

(2) Subject to section 7, the issue shall be tried with or without a jury as the court directing it or the judge presiding at the trial may order. Method of trial.

(3) The trial shall take place at such time and place as the court may direct. Time and place.

(4) On the trial of the issue the alleged mentally incompetent person, if within the jurisdiction of the court, shall be produced, and shall be examined at such time and in such manner, either in open court or privately, and, where the trial is with a jury, before the jury retire to consider their verdict, as the presiding judge may direct, unless the court by the order directing the issue or the judge presiding at the trial dispenses with the production of the mentally incompetent person or with his examination. Production of mentally incompetent person.

(5) On the trial of the issue the inquiry shall be confined to the question whether or not the person who is the subject of the inquiry is at the time of the inquiry a mentally incompetent person and incapable of managing himself or his affairs, and the presiding judge shall make an order in accordance with the result of the inquiry. Scope of inquiry.

(6) The practice and procedure as to the preparation, entry for trial and trial of the issue, and all the proceedings incidental Procedure.

thereto, shall be the same as in the case of any other issue directed by the court or a judge.

Appeal.

(7) The alleged mentally incompetent person and any person aggrieved or affected thereby shall have the like right to move against a verdict or to appeal from an order made upon or after the trial as may be exercised by a party to an action in the court including the right of appeal; and the court hearing any such motion or appeal shall have the same powers as upon a motion against a verdict or an appeal from a judgment entered at or after the trial of an action.

Finality.

(8) Subject to section 9, the order or judgment of the court or, where the issue is tried by a jury, the verdict of the jury shall be final unless set aside upon appeal or motion under subsection 7. R.S.O. 1937, c. 110, s. 6.

Trial
by jury.

7. An alleged mentally incompetent person shall be entitled to demand, by notice in writing to be given to the person applying for the declaration of his mental incompetency and also to be filed in the office of the Registrar of the Supreme Court, Toronto, at least ten days before the first day of the sittings at which the issue is directed to be tried, that any issue directed to determine the question of his mental incompetency shall be tried with a jury, and, unless he withdraws the demand before the trial, or the court is satisfied by personal examination of the mentally incompetent person that he is not mentally competent to form and express a wish for a trial by jury and so declares by order, the issue shall be tried by a jury. R.S.O. 1937, c. 110, s. 7.

Examination
of alleged
mentally
incompetent
person.

8.—(1) For the purposes of the examination mentioned in section 7, or where it is deemed proper for any other purpose, the court may require the alleged mentally incompetent person to attend at such convenient time and place as the court may appoint.

Order for
medical
examination.

(2) The court may by order require an alleged mentally incompetent person to attend and submit to examination by one or more medical practitioners at such time and place as the order directs. R.S.O. 1937, c. 110, s. 8.

SUPERSEDING DECLARATION OF MENTAL INCOMPETENCY

Application
to supersede
declaration
of mental in-
competency.

9.—(1) Upon application at any time after the expiration of one year from the date of the order by which a person has been declared a mentally incompetent person, or sooner by leave of the court, the court, if satisfied that the person has become mentally competent and capable of managing his own affairs, may make an order so declaring.

(2) Any such order shall be subject to appeal as provided by subsections 3 and 4 of section 5. Appeal.

(3) Instead of making an order under subsection 1 the court may direct an issue to try the question of the recovery of the person so formerly declared or adjudged a mentally incompetent person. Directing issue as to recovery.

(4) Any issue so directed shall be subject to sections 6 and 7. Application of ss. 6 and 7.

(5) Where a person formerly declared a mentally incompetent person has been found to be mentally competent and capable of managing his own affairs and the time for appealing from or moving against the order or verdict has expired, or if an appeal be taken or a motion made, when the same has been finally dismissed, an order may be issued superseding, vacating, and setting aside the order declaring the mental incompetency of the person for all purposes except as to acts or things done in respect of the person or estate of the mentally incompetent person while the order was in force. Order superseding declaration of mental incompetency.
R.S.O. 1937, c. 110, s. 9.

COMMITTEES OF ESTATES OF MENTALLY INCOMPETENT PERSONS

10. Where a committee of the estate of a mentally incompetent person has been appointed, Duties,

- (a) the committee shall, within six months after being appointed, file in the office of the master to whom the matter is referred, or of such officer as may be appointed for that purpose, a true inventory of the whole real and personal estate of the mentally incompetent person, stating the income and profits thereof, and setting forth the debts, credits, and effects of the mentally incompetent person, so far as they have come to the knowledge of the committee; inventory of present property;
- (b) if any property belonging to the estate is discovered after the filing of the inventory the committee shall file a true account of such property, from time to time, as it is discovered; also, of after discovered property;
- (c) every inventory and account shall be verified by the oath of the committee; verification;
- (d) the committee shall give security with two or more sureties in double the amount of the personal estate, and of the annual rents and profits of the real estate, for duly accounting for the same from time to time at such intervals as may be directed by the court, security to be given by the committee;

for filing the inventory and for the payment into court of the balances in his hands upon such accounting forthwith after it has been ascertained or otherwise as the court may direct; and

form of
security.

- (e) the security shall be taken by bond in the name of the Accountant of the Supreme Court, and shall be filed in his office. R.S.O. 1937, c. 110, s. 10.

MANAGEMENT AND ADMINISTRATION

Powers of
court as to
maintenance
of mentally
incompetent
person or his
family.
Imp. Act,
53-54 Vict.,
c. 5,
s. 116 (4).

11. The powers conferred by this Act as to the management and administration of a mentally incompetent person's estate shall be exercisable in the discretion of the court for the maintenance or benefit of the mentally incompetent person or of his family or where it appears to be expedient, in the due course of management of the property of the mentally incompetent person. R.S.O. 1937, c. 110, s. 11.

Rights of
creditors.

Imp. Act,
53-54 Vict.,
c. 5,
s. 116 (5).

12. Nothing in this Act shall subject a mentally incompetent person's property to claims of his creditors further than it is now subject thereto by due course of law. R.S.O. 1937, c. 110, s. 12.

Power to
raise money
for certain
purposes.

13.—(1) The court may order that any property of the mentally incompetent person, whether present or future, be sold, charged, mortgaged, dealt with or disposed of as may be deemed most expedient for the purpose of raising or securing or repaying, with or without interest, money which is to be or has been applied to,

- (a) payment of the mentally incompetent person's debts or engagements;
- (b) discharge of any encumbrance on his property;
- (c) payment of any debt or expenditure incurred for the mentally incompetent person's maintenance or otherwise for his benefit;
- (d) payment of or provision for the expenses of his future maintenance.

Terms of
charge or
mortgage.

(2) Where a charge or mortgage is made under this Act for the expenses of future maintenance, the court may direct the same to be payable either contingently if the interest charged is contingent or future, or upon the happening of the event if the interest is dependent on an event which must happen, and either in a gross sum or in annual or other periodical sums, and at such times and in such manner as may be deemed expedient. R.S.O. 1937, c. 110, s. 13.

Imp. Act,
53-54 Vict.,
c. 5, s. 117.

14.—(1) The court may order that the whole or any part of any moneys expended or to be expended under an order of the court for the permanent improvement, security, or advantage of the property of the mentally incompetent person, or of any part thereof, shall, with interest, be a charge upon the improved property or any other property of the mentally incompetent person, but so that no right of sale or foreclosure during the lifetime of the mentally incompetent person be conferred by the charge.

Charging mentally incompetent person's estate for permanent improvements.

Imp. Act, 53-54 Vict., c. 5, s. 118.

(2) The interest shall be kept down during the mentally incompetent person's lifetime out of the income of his general estate, as far as the same is sufficient to bear it.

Interest, how to be met.

(3) The charge may be made either to some person advancing the money or, if the money is paid out of the mentally incompetent person's general estate, to some person as trustee for him as part of his personal estate. R.S.O. 1937, c. 110, s. 14.

To whom charge to be made.

15. The court may, by order, authorize and direct the committee of the estate of a mentally incompetent person to do all or any of the following things:

Powers of committee under order of court.

(a) sell any property belonging to the mentally incompetent person;

Imp. Act, 53-54 Vict., c. 5, s. 120.

(b) make exchange or partition of any property belonging to the mentally incompetent person, or in which he is interested, and give or receive any money for equality of exchange or partition;

(c) carry on any trade or business of the mentally incompetent person;

(d) grant leases of any property of the mentally incompetent person for building, agricultural, or other purposes;

(e) grant leases of minerals forming part of the mentally incompetent person's property, whether the minerals have been worked or not, and either with or without the surface or other land;

(f) surrender any lease and accept a new lease;

(g) accept a surrender of any lease and grant a new lease;

(h) execute any power of leasing vested in a mentally incompetent person having a limited estate only in the property over which the power extends;

(i) perform any contract relating to the property of the mentally incompetent person entered into by him before his mental incompetency;

- (j) surrender, assign, or otherwise dispose of with or without consideration any onerous property belonging to the mentally incompetent person;
- (k) exercise any power or give any consent required for the exercise of any power where the power is vested in the mentally incompetent person for his own benefit or the power of consent is in the nature of a beneficial interest in the mentally incompetent person;
- (l) give consent to the transfer or assignment of a lease where the consent of the mentally incompetent person to the transfer or assignment thereof is requisite. R.S.O. 1937, c. 110, s. 15.

Property exchanged and renewed lease to be to same uses as before.

Imp. Act, 53-54 Vict., c. 5, s. 121.

16. Any property taken in exchange and any renewed lease accepted on behalf of a mentally incompetent person under this Act shall be to the same uses and be subject to the same trusts, charges, encumbrances, dispositions, devices, and conditions as the property given in exchange or the surrendered lease was or would, but for the exchange or surrender, have been subject to. R.S.O. 1937, c. 110, s. 16.

Extent of leasing power.

Imp. Act, 53-54 Vict., c. 5, s. 122.

17.—(1) The power to authorize leases of a mentally incompetent person's property under this Act shall extend to property of which the mentally incompetent person is tenant in tail, and every lease granted pursuant to any order under this Act shall bind the issue of the mentally incompetent person and all persons entitled in remainder and reversion expectant upon the estate tail of the mentally incompetent person, including the Crown, and every person to whom from time to time the reversion expectant upon the lease belongs upon the death of the mentally incompetent person shall have the same rights and remedies against the lessee, his executors, administrators and assigns as the mentally incompetent person or his committee would have had.

Term.

(2) Leases authorized to be granted or accepted by or on behalf of a mentally incompetent person under this Act may be for such number of lives or such term of years, at such rent and royalties, and subject to such reservations, covenants, and conditions as the court approves.

Premiums, etc., on renewal.

(3) Premiums or other payments on the renewal of leases may be paid out of the mentally incompetent person's estate, or charged with interest on the leasehold property. R.S.O. 1937, c. 110, s. 17.

Nature of proceeds of sale and mortgage;

18.—(1) The mentally incompetent person, his heirs, executors, administrators, next of kin, devisees, legatees and assigns, shall have the same interest in any money arising from

any sale, mortgage or other disposition, under this Act, which may not have been applied under such powers, as he or they would have had in the property the subject of the sale, mortgage or disposition, if no sale, mortgage or disposition had been made, and the surplus money shall be of the same nature as the property sold, mortgaged or disposed of.

(2) Money received for equality of partition and exchange, or under any lease of unopened mines, and all premiums and sums of money received upon the grant or renewal of a lease, where the property the subject of the partition, exchange or lease was land of the mentally incompetent person, shall, subject to the application thereof for any purposes authorized by this Act, as between the representatives of the real and personal estate of the mentally incompetent person, be considered as real estate, except in the case of premiums and sums of money received upon the grant or renewal of leases of property of which the mentally incompetent person was tenant for life, in which case the premiums and sums of money shall be personal estate of the mentally incompetent person.

and of money received from certain other sources.

(3) In order to give effect to this section the court may direct any money to be carried to a separate account, and may order such assurances and things to be executed and done as may be deemed expedient. R.S.O. 1937, c. 110, s. 18.

Powers of court.

53-54 Vict., c. 5, s. 123.

19. The committee of the estate, or such person as the court approves, shall, in the name and on behalf of the mentally incompetent person, execute and do all such assurances and things for giving effect to any order under this Act as the court directs, and every such assurance and thing shall be valid and effectual and shall take effect accordingly, subject only to any prior charge to which the property affected thereby at the date of the order is subject. R.S.O. 1937, c. 110, s. 19.

Power to carry orders into effect.

Imp. Act, 53-54 Vict., c. 5, s. 124.

20. Where a power is vested in a mentally incompetent person in the character of trustee or guardian, or the consent of a mentally incompetent person to the exercise of a power is necessary in the like character, or as a check upon the undue exercise of the power, and it appears to the court to be expedient that the power should be exercised or the consent given, the committee of the estate, in the name and on behalf of the mentally incompetent person, under an order of the court made upon the application of any person interested, may exercise the power or give the consent in such manner as the order directs. R.S.O. 1937, c. 110, s. 20.

Powers vested in mentally incompetent person as trustee or guardian.

Imp. Act, 53-54 Vict., c. 5, s. 128.

21. Where the court exercises, in the name and on behalf of the mentally incompetent person, a power of appointing

Appointment of trustees by court.

Imp. Act,
53-54 Vict.,
c. 5, s. 129.
Rev. Stat.,
c. 400.

new trustees vested in the mentally incompetent person, the court, where it seems to be for the mentally incompetent person's benefit and also expedient, may make any order respecting the property subject to the trust which might have been made in the same case under *The Trustee Act*, on the appointment thereunder of a new trustee or new trustees. R.S.O. 1937, c. 110, s. 21.

Provision for
maintenance
when dis-
ability is
temporary.

22.—(1) Where it appears to the court that there is reason to believe that the mental incompetency of any mentally incompetent person so found is in its nature temporary, and will probably be soon removed, and that it is expedient that temporary provision be made for the maintenance of the mentally incompetent person, or of the mentally incompetent person and the members of his immediate family who are dependent upon him for maintenance, and that any sum of money arising from or being in the nature of income or of ready money belonging to the mentally incompetent person, and standing to his account with a banker or agent, or being in the hands of any person for his use, is readily available, and may be safely and properly applied in that behalf, the court may allow thereout such amount as may be deemed proper for the temporary maintenance of the mentally incompetent person or of the mentally incompetent person and the members of his immediate family who are dependent upon him for maintenance, and may, instead of proceeding to order a grant of the custody of the estate, order or give liberty for the payment of any such sum of money, or any part thereof, to such person as under the circumstances of the case it may be thought proper to entrust with the application thereof, and may direct it to be paid to such person accordingly, and when received to be applied and it shall accordingly be applied in or towards such temporary maintenance.

Effect of
receipt.

(2) The receipt in writing of the person to whom payment is to be made for any money payable to him by virtue of an order under this section shall be a good discharge, and every person is hereby directed to act upon and obey every such order.

Liability to
account.

Imp. Act,
53-54 Vict.,
c. 5, s. 127.

(3) The person receiving any money by virtue of an order under this section shall pass an account thereof when and as the court may direct. R.S.O. 1937, c. 110, s. 22.

VESTING ORDERS

Power to
transfer
stock.

23. Where any stock is standing in the name of or is vested in a mentally incompetent person beneficially entitled thereto, or is standing in the name of or vested in the committee of the estate of a mentally incompetent person so

found in trust for the mentally incompetent person or as part of his property, and the committee dies intestate, or himself becomes a mentally incompetent person, or is out of Ontario, or it is uncertain whether the committee is living or dead, or he neglects or refuses to transfer the stock, or to receive or pay over the dividends thereof as directed by an order of the court, then the court may order some fit person to transfer the stock to or into the name of a new committee, or of the Accountant of the Supreme Court, or otherwise, and also to receive and pay over the dividends in such manner as the court directs. R.S.O. 1937, c. 110, s. 23.

Imp. Act,
53-54 Vict.,
c. 5, s. 133.

24. Where any stock is standing in the name of or vested in a person residing out of Ontario, the court upon proof that he has been declared a mentally incompetent person and that his personal estate has been vested in a person appointed for the management thereof according to the law of the place where he is residing, may order some fit person to make such transfer of the stock or any part thereof to or into the name of the person so appointed or otherwise, and also to receive and pay over the dividends thereof as the court directs. R.S.O. 1937, c. 110, s. 24.

Stock in
name of
mentally
incompetent
person out of
jurisdiction.

Imp. Act,
53-54 Vict.,
c. 5, s. 134.

25.—(1) Where a mentally incompetent person is solely or jointly seised or possessed of any land upon trust or by way of mortgage, the court may by order vest the land in such person or persons for such estate and in such manner as the court directs.

Power to
vest land of
mentally in-
competent
trustee or
mortgagee.

(2) Where a mentally incompetent person is solely or jointly entitled to a contingent right in any land upon trust or by way of mortgage the court may by order release the land from the contingent right and dispose of it to such person as the court directs.

Or a contin-
gent right.

(3) An order made under subsection 1 or 2 shall have the same effect as if the trustee or mortgagee had been sane and had executed a deed conveying the land for the estate named in the order, or releasing or disposing of the contingent right.

Effect of
order.

(4) Where an order may be made under this section the court may, if it is more convenient, appoint a person to convey the land or release the contingent interest, and a conveyance or release by such person in conformity with the order shall have the same effect as an order under subsections 1 and 2. R.S.O. 1937, c. 110, s. 25.

Conveyance.

Imp. Act,
53-54 Vict.,
c. 5, s. 135.

26.—(1) Where a mentally incompetent person is solely entitled to any stock or chose in action upon trust or by way of mortgage, the court may by order vest in any person the

Mentally
incompetent
trustee or
mortgagee
of chose in
action.

right to transfer or to call for a transfer of the stock or to receive the dividends thereof, or vest in any person the chose in action, or any interest in respect thereof.

Jointly
interested.

(2) Where any person is jointly entitled with a mentally incompetent person to any stock or chose in action upon trust or by way of mortgage the court may make an order vesting the right to transfer or to call for a transfer of the stock or to receive the dividends thereof or vesting the chose in action or any interest in respect thereof either in such person alone or jointly with any other person.

Mentally
incompetent
personal
representa-
tive.

(3) Where any stock is standing in the name of a deceased person whose personal representative is a mentally incompetent person or where a chose in action is vested in a mentally incompetent person as the personal representative of a deceased person, the court may make an order vesting the right to transfer or to call for a transfer of the stock or to receive the dividends thereof or vesting the chose in action or any interest in respect thereof in any person whom the court may appoint.

Transfer.
Imp. Act,
53-54 Vict.,
c. 5, s. 136.

(4) Where an order may be made under this section the court may, if it is more convenient, appoint some fit person to make or join in making the transfer. R.S.O. 1937, c. 110, s. 26.

Execution of
powers of
attorney and
transfers.

27.—(1) The person in whom the right to transfer or to call for a transfer of any stock is vested may execute and do all powers of attorney, assurances and things to complete the transfer, according to the order, and the transfer shall be valid and effectual to all intents and purposes, and banks and other companies and their officers and all other persons shall be bound to obey every such order according to its terms.

Bank or
company to
be bound by
order.
Imp. Act,
53-54 Vict.,
c. 5, s. 136.

(2) After notice in writing of an order under this Act it shall not be lawful for a bank or other company to transfer stock to which the order relates or pay any dividends except in accordance with the order. R.S.O. 1937, c. 110, s. 27.

Order to be
complete
discharge.

28. This Act and every order purporting to be made under this Act shall be a full indemnity and discharge to any bank and other company and society and their respective officers and servants, and all other persons for all acts and things done or permitted to be done pursuant thereto so far as relates to any property in which a mentally incompetent person is interested either in his own right or as trustee or mortgagee, and it shall not be necessary to inquire into the propriety of any order purporting to be made under this Act relating to any such property or the jurisdiction to make such order. R.S.O. 1937, c. 110, s. 28.

Imp. Act,
53-54 Vict.,
c. 5, s. 333.

29. The fact that an order made under this Act for conveying or vesting land or releasing or disposing of a contingent right has been founded on an allegation of the mental incompetency of a trustee or mortgagee, shall be conclusive evidence of the fact alleged in any court upon any question as to the validity of the order; but this section shall not prevent the court from directing a reconveyance of any land or contingent right dealt with by the order, or from directing any party to any proceeding concerning such land or right to pay any costs occasioned by the order, where the order appears to have been improperly obtained. R.S.O. 1937, c. 110, s. 29.

Order to be conclusive evidence of mental incompetency.

Imp. Act, 53-54 Vict., c. 5, s. 140.

30. The powers conferred by this Act as to vesting orders may be exercised by vesting any land, stock or chose in action in the trustee or trustees of any charitable society or in any incorporated charitable body over which the court would have jurisdiction upon action duly instituted, whether the appointment of such trustee or trustees was made by instrument under a power or by the court under its general or statutory jurisdiction. R.S.O. 1937, c. 110, s. 30.

Order vesting in trustees of charities.

Imp. Act, 53-54 Vict., c. 5, s. 138.

31. The court may make declarations and give directions concerning the manner in which the right to any stock or chose in action vested under this Act is to be exercised. R.S.O. 1937, c. 110, s. 31.

Declarations and directions by court.

Imp. Act, 53-54 Vict., c. 5, s. 139.

32. Where the court has jurisdiction to order a conveyance or transfer of land or stock or to make a vesting order, an order may also be made appointing a new trustee or trustees. R.S.O. 1937, c. 110, s. 32.

Appointment of new trustee.

Imp. Act, 53-54 Vict., c. 5, s. 141.

MISCELLANEOUS

33. Where there is money in any court to the credit of a person who has been found or who is alleged to be a mentally incompetent person and the person is resident in Great Britain or Ireland or in any part of Canada other than Ontario, upon production of an order made by a Superior Court exercising jurisdiction where the person is resident authorizing any person to receive such money, the court may make an order for payment of such money to the person designated in the order to receive the same. R.S.O. 1937, c. 110, s. 33.

Money in court belonging to mentally incompetent person in any other part of Canada, or Great Britain, or Ireland.

34. The court may order the costs, charges, and expenses of and incidental to orders, issues, directions, conveyances, transfers, and all proceedings of whatever nature under this Act to be paid by any party to the application, issue or proceeding, or out of the estate of the mentally incompetent person or alleged mentally incompetent person, or partly in one way and partly in another. R.S.O. 1937, c. 110, s. 34.

Costs.

Rules.

35. Subject to the approval of the Lieutenant-Governor in Council, the Rules Committee may make rules for carrying this Act into effect and for regulating the costs in relation thereto, and except where inconsistent with this Act or such rules, *The Judicature Act* and rules made thereunder shall apply to proceedings under this Act. R.S.O. 1937, c. 110, s. 35 (1); 1941, c. 55, s. 20.

Rev. Stat.,
c. 190.

APPLICATION OF ACT TO PERSONS NOT MENTALLY INCOMPETENT,
BUT INCAPACITATED BY MENTAL INFIRMITY

Extension of
Act.

36.—(1) The powers and provisions of this Act relating to management and administration shall apply to every person not declared to be mentally incompetent with regard to whom it is proved, to the satisfaction of the court, that he is, through mental infirmity, arising from disease, age, or other cause, or by reason of habitual drunkenness or the use of drugs, incapable of managing his affairs.

Application
of section.

(2) This section shall apply although the person is not a mentally incompetent person.

Powers of
committee,
how
exercised
and by
whom.

(3) Such of the powers of this Act as are made exercisable by the committee of the estate under order of the court shall be exercised in the cases provided for by subsection 1 by such person, in such manner, and with or without security, as the court may direct, and any such order may confer upon the person therein named authority to do any specified act or exercise any specified power, or may confer a general authority to exercise on behalf of the person to whom the order relates until further order, all or any such powers without further application to the court.

Liability of
person
appointed.
Imp. Act,
53-54 Vict.,
c. 5,
s. 116 (1)
(d), (2),
54-55 Vict.,
c. 65,
s. 27 (4).

(4) Every person appointed to do any such act or exercise any such power shall be subject to the jurisdiction and authority of the court as if such person were the committee of the estate of a mentally incompetent person so declared.

Application
of s. 11.

(5) Section 11 shall apply to the cases provided for by subsection 1, and the person in respect of whom the order is made, and any person aggrieved or affected by the order shall have the like right to appeal therefrom as is provided for by section 5. R.S.O. 1937, c. 110, s. 36 (1-5).

Proceedings
on applica-
tion to
discharge
order.

(6) Upon application at any time after the expiration of one year from the date of the order by which a person has been declared incapable of managing his affairs under subsection 1, or sooner by leave of the court, the like proceedings may be taken and the like order made as provided in section 9 in the case of a person who has been declared a mentally incompetent person. 1946, c. 53, s. 2.

CHAPTER 231

The Mercantile Law Amendment Act**1. In this Act,**

Inter-pretation.

- (a) "bill of lading" includes all receipts for goods accompanied by an undertaking to transfer them from the place where they were received to some other place by any mode of carriage whatever, whether by land or water or partly by land and partly by water;
- (b) "goods" includes wares and merchandise;
- (c) "warehouse receipt" means any receipt given by any person for any goods in his actual, visible and continued possession as bailee thereof in good faith and not as of his own property, and includes,
 - (i) a receipt given by any person who is the owner or keeper of an harbour, cove, pond, wharf, yard, warehouse, shed, storehouse or other place for the storage of goods delivered to him as bailee, and actually in the place or in one or more of the places owned or kept by him whether such person is engaged in other business or not,
 - (ii) a receipt given by any person in charge of logs or timber in transit from timber limits or other land to the place of destination of such logs or timber,
 - (iii) a specification of timber,
 - (iv) a warehouse receipt as defined by *The Warehouse Receipts Act*. R.S.O. 1937, c. 178, s. 1; 1947, c. 101, s. 13 (1).

Rev. Stat., c. 418.

2.—(1) Every person who, being surety for the debt or duty of another or being liable with another for any debt or duty, pays the debt or performs the duty shall be entitled to have assigned to him or to a trustee for him, every judgment, specialty or other security which is held by the creditor in respect of the debt or duty, whether the judgment, specialty or other security be or be not deemed at law to have been satisfied by the payment of the debt or the performance of the duty.

Right of sureties paying the principal debt, etc., to assignment.

Remedies on such assignment.

(2) Such person shall be entitled to stand in the place of the creditor, and to use all the remedies, and, on proper indemnity to use the name of the creditor in any action or other proceeding in order to obtain from the principal debtor, or any co-surety, co-contractor or co-debtor indemnification for the advances made and loss sustained by such person, and the payment or performance made by him shall not be a defence to such action or other proceeding by him.

What one co-surety, etc., may recover from another.

(3) No co-surety, co-contractor or co-debtor shall be entitled to recover from any other co-surety, co-contractor or co-debtor more than the just proportion to which, as between themselves, the last-mentioned person is justly liable. R.S.O. 1937, c. 178, s. 2.

Securities held on joint account.

Imp. Act, 44-45 V., c. 41, s. 61.

3.—(1) Where, in a mortgage or an obligation for payment of money, or a transfer of mortgage or of such obligation, made after the 1st day of July, 1886, the sum, or any part of the sum advanced or owing is expressed to be advanced by or owing to more persons than one out of money, or as money, belonging to them on a joint account, or where a mortgage, or such an obligation, or such a transfer is made to more persons than one, jointly and not in shares, the mortgage money, or other money or money's worth, for the time being due to such persons on the mortgage or obligation, shall be deemed to be and remain money or money's worth belonging to those persons on a joint account, as between them and the mortgagor or obligor, and the receipt in writing of the survivors or last survivor of them, or of the personal representative of the last survivor, shall be a complete discharge for all money or money's worth for the time being due, notwithstanding any notice to the payer of a severance of the joint account.

Application of section.

(2) This section shall apply only if and as far as a contrary intention is not expressed in the mortgage or obligation or transfer, and shall have effect subject to the terms thereof. R.S.O. 1937, c. 178, s. 3.

Joint contracts.

4. In case any one or more joint contractors, obligors or partners die the person interested in the contract, obligation or promise entered into by such joint contractors, obligors or partners may proceed by action against the representatives of the deceased contractor, obligor or partner in the same manner as if the contract, obligation or promise had been joint and several, and this notwithstanding there may be another person liable under such contract, obligation or promise still living, and an action pending against such person; but the property and effects of shareholders in chartered banks or the members of other incorporated companies shall not be liable to a greater extent than they would have been if this section had not been passed. R.S.O. 1937, c. 178, s. 4.

5.—(1) A covenant, and a contract under seal, and a bond or obligation under seal, made with two or more jointly to pay money or to make a conveyance, or to do any other act to them or for their benefit, shall be deemed to include and shall by virtue of this Act imply an obligation to do the act to or for the benefit of the survivor or survivors of them, and to or for the benefit of any other person to whom the right to sue on the covenant, contract, bond or obligation devolves.

Effect of covenant with two or more jointly. Imp. Act, 44-45 V., c. 41, s. 60.

(2) This section shall extend to a covenant implied by *The Conveyancing and Law of Property Act*.

Idem. Rev. Stat., c. 68.

(3) This section applies only if and as far as a contrary intention is not expressed in the covenant, contract, bond or obligation, and shall have effect subject to the covenant, contract, bond or obligation and to the provisions therein contained. R.S.O. 1937, c. 178, s. 5.

Contrary intention.

6.—(1) Any covenant, whether express or implied, or agreement entered into by a person with himself and one or more other persons shall be construed and be capable of being enforced in like manner as if the covenant or agreement had been entered into with the other person or persons alone.

Covenants of a person and one or more persons enforceable. Imp. Act, 15 Geo. V, c. 20, s. 82, (1, 2).

(2) This section shall apply to covenants or agreements entered into before or after the commencement of this Act, and to covenants implied by statute in the case of a person who conveys or is expressed to convey to himself and one or more other persons, but without prejudice to any order of the court made before such commencement. R.S.O. 1937, c. 178, s. 6.

Application of section.

7.—(1) Every consignee of goods named in a bill of lading and every endorsee of a bill of lading to whom the property in the goods therein mentioned passes upon, or by reason of the consignment or endorsement, shall have and be vested with all rights of action, and be subject to the same liabilities in respect of the goods as if the contract contained in the bill of lading had been made with him.

Bills of lading. Imp. Act, 18-19 V., c. 111.

(2) Nothing in this section shall prejudice or affect any right of stoppage *in transitu*, or any right to claim freight against the original shipper or owner, or any liability of the consignee or endorsee, by reason or in consequence of his being the consignee or endorsee, or of his receipt of the goods by reason of or in consequence of the consignment or endorsement.

Certain rights and liabilities not affected.

(3) Every bill of lading in the hands of a consignee or endorsee for valuable consideration representing goods to

Bills of lading as evidence against signer.

have been shipped on board a vessel, train or conveyance of any kind shall be conclusive evidence of shipment as against the master or other person signing the same, notwithstanding that the goods or some part thereof may not have been so shipped, unless the holder of the bill of lading has actual notice at the time of receiving it that the goods had not in fact been laden on board, or unless the bill of lading has a stipulation to the contrary; but the master or other person so signing may exonerate himself in respect to such misrepresentation by showing that it was caused without any default on his part, and wholly by the fraud of the shipper or of the holder, or of some person under whom the holder claims. R.S.O. 1937, c. 178, s. 7.

Assignment
of warehouse
receipts, etc.,
as collateral
security.
Rev. Stat.,
c. 418.

8.—(1) Subject to the provisions of *The Warehouse Receipts Act* as to the negotiation of, and the transfer of the goods covered by, a warehouse receipt as defined therein, the owner of or other person entitled to receive the goods included in a warehouse receipt or bill of lading may transfer the warehouse receipt or bill of lading by endorsement thereon signed by himself, his attorney or agent to any other person as collateral security for any debt owing by him.

What passes.

(2) The endorsement or transfer shall from the date thereof vest in the transferee all the right or title of the transferor to or in the goods subject to the right of the transferor to have the goods, warehouse receipt or bill of lading re-transferred to him if the debt is paid when due.

Rights of
transferee.

(3) If the debt is not paid when due the person to whom the goods, warehouse receipt or bill of lading was so transferred may sell the goods and after satisfying any lien against the goods may retain the proceeds or so much thereof as may be equal to the amount of the debt and shall return the overplus, if any, to the transferor. 1947, c. 101, s. 13 (2).

Warehouse
receipt or bill
of lading
given by
owner who is
warehouse-
man.

9. Where a person by whom a warehouse receipt or bill of lading might be given for goods in his capacity as a miller, or the owner or keeper of an harbour, cove, pond, wharf, yard, warehouse, shed, storehouse or other place for the storage of goods delivered to him as bailee, master of a vessel or carrier, is the owner of or entitled himself otherwise than in such capacity to receive the goods, any warehouse receipt or bill of lading, or any acknowledgment or certificate intended to answer the purpose thereof, given and endorsed by such person shall be as valid and effectual for the purposes of this Act as if the warehouse receipt, bill of lading, acknowledgment or certificate had been given by one person and endorsed by another. R.S.O. 1937, c. 178, s. 9.

10. If goods are manufactured or produced from the goods or any of them included in or covered by any warehouse receipt, while so covered, the person holding the warehouse receipt shall hold or continue to hold the goods during the process and after the completion of the manufacture or production with the same right and title and for the same purposes and upon the same conditions as he held or could have held the original goods. R.S.O. 1937, c. 178, s. 10.

As to goods manufactured from articles pledged.

11.—(1) No goods other than timber, boards, deals, staves, sawlogs or other lumber shall be held in pledge for any period exceeding six months.

Limit of time for holding goods in pledge.

(2) No timber, boards, deals, staves, sawlogs or other lumber shall be held in pledge for any period exceeding twelve months.

Idem.

(3) No transfer of a bill of lading or warehouse receipt shall be made under this Act to secure the payment of any debt unless the debt is contracted at the time of the acquisition of the bill of lading or warehouse receipt, or upon the written promise or agreement that such bill of lading or warehouse receipt would be given to such person. R.S.O. 1937, c. 178, s. 11.

When the debt may be incurred.

12. All advances made on the security of a bill of lading or warehouse receipt shall give to the person making the advances a claim for the re-payment of the advances on the goods therein mentioned, or into which they have been converted, prior to and by preference over the claim of any unpaid vendor or other creditor, save and except claims for wages for labour performed in making and transporting timber, boards, deals, staves, sawlogs or other lumber; but such preference shall not be given over the claim of an unpaid vendor who had a lien upon the goods at the time of the acquisition by such person of the bill of lading or warehouse receipt, unless the same was acquired by him without knowledge of such lien. R.S.O. 1937, c. 178, s. 12.

Prior claim of person making advance over unpaid vendor.

13.—(1) In the event of the non-payment at maturity of any debt or liability secured by a bill of lading or warehouse receipt the holder thereof may sell the goods mentioned therein or so much thereof as will suffice to pay the debt or liability with interest and expenses, returning the surplus, if any, to the person from whom the bill of lading or warehouse receipt, or the goods mentioned therein, as the case may be, were acquired; but such power of sale shall be exercised subject to subsections 2, 3 and 4.

Sale of goods on non-payment of debt.

(2) No sale of any timber, boards, deals, staves, sawlogs or other lumber shall be made under this Act without the

Notice of sale of timber, etc.

consent in writing of the owner until notice of the time and place of the sale has been given by registered letter to the last known address of the pledgor at least thirty days before the sale.

Notice of
sale of
other goods.

(3) No goods other than timber, boards, deals, staves, saw-logs or other lumber shall be sold under this section without the consent of the owner until notice of the time and place of sale has been given by a registered letter to the last known address of the pledgor thereof at least ten days before the sale.

Sale by
auction.

(4) Every sale under such power of sale without the consent of the owner shall be made by public auction after notice thereof by advertisement in at least two newspapers published in or nearest to the place where the sale is to be made, stating the time and place thereof. R.S.O. 1937, c. 178, s. 13, *amended*.

Transfer of
warehouse
receipts for
crude petro-
leum issued
by incor-
porated
companies.

14.—(1) Every transportation receipt, warehouse receipt, accepted order and certificate for crude petroleum, issued by any incorporated company authorized to carry on the business of warehousing, shall be transferable by endorsement, either special or in blank, and upon being endorsed in blank shall become transferable by delivery, and every such endorsement or transfer by delivery shall transfer all right of property and possession of the petroleum mentioned in the transportation or warehouse receipt, accepted order or certificate, to the endorsee or transferee thereof, subject to the terms and conditions of the transportation or warehouse receipt, accepted order or certificate as fully and completely as if a sale of the petroleum mentioned therein had been made in the ordinary way.

Idem.

(2) On the delivery of any petroleum mentioned in such document by such company in good faith, to a person in possession of the transportation or warehouse receipt, accepted order or certificate so endorsed or transferred the company shall be freed from all further liability in respect thereof, and the endorsee or transferee or holder of the transportation or warehouse receipt, accepted order or certificate to whom the property in the petroleum mentioned therein passes by reason of such endorsement or delivery, shall have transferred to and vested in him all rights of action and be subject to the same liabilities in respect of such petroleum as if the contract contained in the transportation or warehouse receipt, accepted order or certificate had been made by the company with himself. R.S.O. 1937, c. 178, s. 14.

Construc-
tion of
stipulations
not of the
essence of
the contract.
44 V., c. 5.

15. Stipulations in contracts as to time or otherwise which would not, before the passing of *The Ontario Judicature Act, 1881*, have been deemed to be or to have become of the essence of such contracts in a court of equity shall receive in all

courts the same construction and effect as they would prior to the passing of that Act have received in equity. R.S.O. 1937, c. 178, s. 15.

16. Part performance of an obligation either before or after a breach thereof when expressly accepted by the creditor in satisfaction or rendered in pursuance of an agreement for that purpose, though without any new consideration, shall be held to extinguish the obligation. R.S.O. 1937, c. 178, s. 16.

CHAPTER 232

The Milk and Cream Act

1. In this Act, "municipality" does not include county. Interpretation.
R.S.O. 1937, c. 302, s. 1.

2. The council of any municipality may pass by-laws for Powers of municipal councils.
regulating milk or cream produced for sale, offered for sale or
sold within the municipality as to the,

- (a) care of cows producing milk for sale for domestic consumption;
- (b) cleanliness, ventilation and sanitary conditions of the places in which cows are kept or milked or in which milk or cream is stored;
- (c) water supplied to cows;
- (d) care and cleansing, construction and type of all utensils used in handling milk or cream whether by producers, carriers or vendors;
- (e) care, storage, transportation and distribution of milk by producers, carriers or vendors;
- (f) making of bacteriological tests for the purpose of ascertaining the wholesomeness of milk or cream offered for sale by any producer, carrier or vendor;
- (g) other matters regarding the production, care, transportation or sale of milk or cream which the council may deem necessary,

and upon any such by-law being approved in writing by the Minister of Agriculture, it shall apply to all milk produced for sale, offered for sale or sold within the municipality. R.S.O. 1937, c. 302, s. 2.

3.—(1) The council of any municipality may pass by-laws By-laws regulating the granting of licences.
for licensing and regulating the granting of licences to vendors
of milk or cream for human consumption, and may refuse or
cancel such licences.

(2) No person shall sell milk or cream in a municipality in Not to be sold without a licence.
which any such by-law is in force without first obtaining a
licence therefor. R.S.O. 1937, c. 302, s. 3.

By-laws
prescribing
hours of
delivery.

4. The council of any municipality may pass by-laws prescribing the hours during which milk and cream may be delivered by vendors to consumers for human consumption within the municipality. 1941, c. 30, s. 1.

By-laws
fixing
standards
of butter
fat and
solids.

5.—(1) The council of any municipality may pass by-laws fixing the standards for butter fat in cream, and the butter fat and total solids in milk sold in the municipality, but no cream containing less than sixteen per cent butter fat or milk containing less than eleven and three-quarters per cent total solids of which three and one-quarter per cent is butter fat, shall be sold for human consumption.

Preserva-
tives, etc.,
not to be
used.

(2) No person shall place any preservative in milk or cream intended for human consumption, or sell or offer for sale to any vendor, milk from which any part of the butter fat has been removed, or to which water has been added, or which has otherwise been changed from its normal condition, without previously giving notice in writing of the change to the vendor.

Departures
from stan-
dard or
normal con-
dition must
be adver-
tised.

(3) No vendor of milk or cream shall sell or offer for sale milk or cream not complying with the standard, or milk from which butter fat has been removed, or to which water has been added, or which has otherwise been changed from its normal condition, without clearly and distinctly advertising the same in the manner prescribed by the by-law of the municipality in which it is sold or offered for sale. R.S.O. 1937, c. 302, s. 4.

Municipal
inspectors.

6.—(1) The council of any municipality may by by-law appoint one or more inspectors for the enforcement of this Act and any by-law passed hereunder.

Powers.

(2) Every such inspector may prohibit the sale within the municipality for which he is inspector of milk or cream for human consumption which, in his judgment, is produced or handled contrary to this Act or any by-law passed hereunder.

Powers.

(3) Every such inspector may inspect the premises of every vendor licensed to sell milk or cream within the municipality to ensure that the requirements of this Act and the by-laws are fully complied with, and may take samples of milk or cream for examination and testing.

Powers.

(4) Every such inspector may enter the premises, wherever located, of every person producing milk or cream for sale or consumption within the municipality, inspect the same and take for examination and testing samples of milk or cream produced therein and of the water supplied to cows or used in cleansing dairy utensils.

Powers.

(5) Every such inspector may inspect and take samples of milk or cream for sale or consumption within the municipality

while in transit, and may enter any premises in order to procure samples of such milk or cream.

(6) The result of all such tests shall be open to public inspection at all reasonable times and may be published by the medical officer of health of the municipality. R.S.O. 1937, c. 302, s. 5, *amended*. Publication of tests.

7.—(1) No person shall sell or offer for sale milk or cream from any cow which upon physical examination by a duly qualified veterinary surgeon is declared to be suffering from tuberculosis of the udder or milk glands, or whose milk, upon bacteriological or microscopical analysis is shown to contain tubercle bacilli or which is known to be suffering from splenic fever or anthrax or any other general or local disease which is liable to render milk or cream from such cow dangerous to health. Milk from diseased cows.

(2) Where an inspector suspects that a cow is affected with any of such diseases, he shall notify the owner that the milk or cream of the cow must not be sold or offered for sale until a permit has been granted by the board of health of the municipality in which the milk or cream is to be consumed, and after such notice is given, the milk or cream from the cow shall not be sold until the permit is granted. R.S.O. 1937, c. 302, s. 6, *amended*. Idem.

8. No person suffering from, or who has knowingly, within a time prescribed by the regulations of the Department of Health, been exposed to diphtheria, scarlet fever, typhoid fever, erysipelas, smallpox, chickenpox, measles, glanders, anthrax, venereal disease or any infectious skin disease shall work or assist in the production, transportation or vending of milk or cream, and no owner, manager or superintendent of any dairy or dairy farm shall knowingly permit any person so suffering or exposed, to work or assist in the production, transportation or vending of milk or cream, and the sale of milk or cream produced or handled under such circumstances may be prohibited by the inspector. R.S.O. 1937, c. 302, s. 7. Persons suffering from diseases not to be employed.

9. Cans, bottles and other utensils used in the distribution of milk or cream shall not be used for any other purpose, and shall be thoroughly cleansed before being used again. R.S.O. 1937, c. 302, s. 8. Use and cleansing of utensils.

10. The council of any municipality may establish and maintain or assist by annual grant or otherwise in the establishment and maintenance of milk or cream depots in order to furnish a special supply of milk to infants. R.S.O. 1937, c. 302, s. 9. Municipal milk depots.

Penalty.

11. Every person contravening any of the provisions of this Act or of any by-law passed hereunder shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$1 and not more than \$50. R.S.O. 1937, c. 302, s. 12.

CHAPTER 233

The Milk Control Act**1. In this Act,**Interpre-
tation.

- (a) "agreement" means an agreement made by collective bargaining representatives under this Act;
- (b) "award" means an award made by a board of arbitration under this Act;
- (c) "Board" means The Milk Control Board of Ontario;
- (d) "distributor" means a person engaged in the business of distributing milk either directly or indirectly to consumers;
- (e) "field-men" means field-men appointed by the Lieutenant-Governor in Council under this Act;
- (f) "inspector" means an inspector appointed by a marketing agency;
- (g) "licence" means a licence provided for in the regulations;
- (h) "market" means the market named in an agreement or award or the market supplied with milk by the producers represented by a marketing agency or by an association;
- (i) "marketing" includes advertising, buying, selling, offering for sale, transporting, shipping and distributing milk;
- (j) "marketing agency" means a marketing agency established under this Act;
- (k) "milk" includes cream and such products of milk or cream as are manufactured or processed in any form, other than butter and cheese;
- (l) "Minister" means Minister of Agriculture;
- (m) "processor" means a person engaged in the business of processing milk or manufacturing milk products, other than butter and cheese;
- (n) "regulations" means regulations made under this Act;

- (o) "transporter" means a person engaged in the business of transporting milk from a producer to a processor or distributor. 1948, c. 55, s. 1.

Milk Control Board of Ontario continued.

2.—(1) The body corporate heretofore established and known as The Milk Control Board of Ontario is continued.

Constitution of Board.

(2) The Board shall consist of one or more members who shall be appointed by the Lieutenant-Governor in Council and shall hold office during pleasure.

Chairman.

(3) Where more than one member is appointed the Lieutenant-Governor in Council shall designate one of the members as chairman. 1948, c. 55, s. 2 (1-3).

Quorum.

(4) Where the Board consists of more than two members a majority shall constitute a quorum. 1949, c. 57, s. 1.

Staff.

3.—(1) The staff of the Board shall consist of an administrative officer and such other officers, field-men, clerks, stenographers and employees as the Lieutenant-Governor in Council may appoint.

Direction and control of staff.

(2) The administrative officer shall be under the direction and control of the Board and the officers, field-men, clerks stenographers and employees shall be under the direction and control of the administrative officer. 1948, c. 55, s. 3.

Salaries.

4. The members, the administrative officer and the officers, field-men, clerks, stenographers and employees shall be paid such salaries or other remuneration and expenses as the Lieutenant-Governor in Council may determine. 1948, c. 55, s. 4.

Powers of Board.

5.—(1) The Board may,

- (a) upon its own initiative or upon complaint, inquire into any matter relating to the production, transportation, processing, distribution or sale of milk;
- (b) arbitrate, adjust and settle disputes arising between or among producers, transporters, processors and distributors of milk;
- (c) investigate the cost of producing, transporting, processing and distributing milk, prices, price spreads, trade practices, methods of financing, management, testing, weighing and any other matter relating to the marketing of milk;
- (d) prohibit distributors compelling or inducing producers to invest money either directly or indirectly

in a dairy plant or equipment in order that such producers may obtain or retain a sale for their milk;

- (e) prohibit a processor or a distributor from terminating the purchase of milk from a producer or a producer from terminating the sale of milk to a processor or distributor without just cause;
- (f) enter upon and inspect any land, place, building, works or property of any transporter, processor or distributor;
- (g) refuse to grant a licence where the applicant is not qualified by experience, financial responsibility and equipment to properly conduct the proposed business or for any other reason that the Board may deem sufficient;
- (h) suspend, revoke or refuse to renew any licence for failure to observe, perform or carry out any of the provisions of this Act, the regulations, or any order of the Board, or any agreement or award, provided that in every such case the applicant shall be afforded an opportunity of appearing before the Board to show cause why the licence should not be suspended or revoked or why the renewal should not be refused, as the case may be;
- (i) do such acts and make such orders as are necessary to enforce the due observance and carrying out of this Act, the regulations and any agreement or award.

(2) Upon any inquiry or investigation under this section the Board shall have all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*. 1948, c. 55, s. 5. Powers of investigation.
Rev. Stat.,
c. 308.

6.—(1) Where the producers supplying milk to a market have a representative organization, the organization, and where there is no such organization, a representative group of such producers, may apply to the Lieutenant-Governor in Council to establish a marketing agency. 1948, c. 55, s. 6 (1). Application for marketing agency.

(2) The application may be referred to the Board and thereupon it shall be the duty of the Board to take a poll by mail of the producers supplying the market as to whether or not they support the application and if the result of the poll in the opinion of the Board is that at least sixty-six per cent of the producers supplying the market support the application, it may recommend to the Lieutenant-Governor in Council that it be granted. 1948, c. 55, s. 6 (2); 1950, c. 43, s. 1. Reference to Board.

Power to
constitute
marketing
agencies.

(3) Upon receipt of the recommendation, the Lieutenant-Governor in Council may constitute the applicants or any of them as a marketing agency under the name designated.

Objects,
powers, etc.

(4) Every marketing agency shall be a body corporate with the following objects, powers and duties:

- (a) to stimulate, increase and improve the production and marketing of milk;
- (b) to act as the collective bargaining agency for the producers it represents;
- (c) to act as the marketing agency for the producers it represents;
- (d) to appoint inspectors;
- (e) to receive licence fees and expend such fees for its purposes; and
- (f) to do such other acts and things as are necessary or conducive to the attainment of its objects, powers and duties.

Furnishing
of informa-
tion.

(5) The Board may require a marketing agency to furnish information relating to any act or thing undertaken or done by the marketing agency. 1948, c. 55, s. 6 (3-5).

Collective
bargaining,
producers,
processors,
distributors;

7.—(1) The producers, any class of processors or the distributors of milk in any market may require,

- (a) in the case of producers, the processors or distributors to whom they sell milk; or
- (b) in the case of processors or distributors, the producers from whom they purchase milk,

to bargain collectively in order to determine the prices that shall be paid to the producers supplying milk to the distributors or processors and to prescribe the terms and conditions relating to the sale and purchase of the milk and to fix quotas or establish quota committees.

producers,
transporters.

(2) The producers or transporters of milk in any market may require,

- (a) in the case of producers, the transporters who transport their milk to processors or distributors; or
- (b) in the case of transporters, the producers from whom they receive milk,

to bargain collectively in order to determine the prices that shall be paid to the transporters for transporting the milk of

the producers to processors or distributors and to prescribe the terms and conditions relating to the transportation of the milk.

(3) Notice to bargain collectively setting out, Notice.

- (a) the names of the persons joining in the notice;
- (b) the names and addresses of their collective bargaining representatives; and
- (c) the market in respect of which collective bargaining is sought,

shall be given to the persons who are required to bargain collectively and a copy of the notice shall be sent to the Board.

(4) Where the Board is of opinion that the persons requiring collective bargaining are not representative of the producers, transporters, processors or distributors, as the case may be, it may, within one week of the receipt of the notice, so advise the persons joining in the notice and the persons to whom the notice was given and thereupon the notice shall cease to have effect. 1948, c. 55, s. 7 (1-4). Sufficiency of representation.

(5) Where the persons required to bargain collectively do not advise the representatives of the persons requiring collective bargaining and the Board of the names of their representatives within one week of the receipt of the notice under subsection 3, the Board may designate persons to represent them. 1948, c. 55, s. 7 (5); 1949, c. 57, s. 2 (1). Failure to observe notice.

(6) Where the Board is of opinion that the representatives named by the persons that are required to bargain collectively are not representative of such persons, it may designate persons to represent them. 1948, c. 55, s. 7 (6). Sufficiency of representation.

(7) Collective bargaining shall commence within two weeks of the receipt of the notice by the persons required to bargain collectively and if collective bargaining does not so commence it shall be presumed that an agreement cannot be reached. 1949, c. 57, s. 2 (2). Commencement of bargaining.

(8) The representatives shall bargain collectively in good faith. Good faith.

(9) In this section, "persons" includes an association or a marketing agency. 1948, c. 55, s. 7 (7, 8). Interpretation.

8.—(1) When collective bargaining has proceeded for two weeks, or sooner if the representatives of either party are satisfied that an agreement under section 7 cannot be reached, they may, by notice to the representatives of the other party, require all matters in dispute to be referred to a board of Failure to agree, arbitration.

arbitration of three members to which the representatives of each of the parties shall appoint a member, and the third member, who shall be the chairman, shall be appointed by the Minister and shall be a judge of a county or district court.

Failure to
appoint.

(2) Where either party fails to appoint a member of the board of arbitration within one week after the giving of the notice mentioned in subsection 1, or having appointed a person who is unable or unwilling to act, fails to appoint another member within such week or the following week, the Board may, upon the request of the other party, appoint a member in lieu thereof. 1949, c. 57, s. 3.

Decision of
chairman.

(3) Where a majority of the members of a board of arbitration fail to agree upon any matter referred to it, the decision of the chairman shall be deemed to be the decision of the board.

Costs.

(4) Each of the parties to the arbitration shall assume its own costs of the arbitration proceedings and shall share the cost of the third arbitrator equally. 1948, c. 55, s. 8 (4, 5).

Filing of
agreements
and
awards,
effective
date.

9.—(1) Every agreement and award shall be filed forthwith after the making thereof with the Board and shall come into force on the seventh day after it is so filed or on such later day as may be named in the agreement or award.

Where no
termination
date speci-
fied.

(2) If no date of termination is provided in an agreement or award it shall remain in force for one year.

Re-negotia-
tion.

(3) Notwithstanding subsection 2 or that a date of termination is provided in an agreement or award the Board may at any time upon application of any party thereto provide for the re-negotiation of any of its terms, but until a new agreement comes into force the existing agreement or award shall remain in force as though no such application had been made. 1949, c. 57, s. 4.

Persons
entitled
to supply
milk.

10.—(1) Only the producers who supplied milk to the market at the time the agreement or award was made shall be entitled to supply milk to the market while the agreement or award is in effect, provided that any other producer,

- (a) who has arranged with a processor or distributor in the market to purchase his milk; and
- (b) who complies with the laws relating to the production, sanitation, handling and care of milk,

shall be entitled to supply milk to the market and shall be bound by the agreement or award and every other matter relating to the marketing of milk in the same manner as other producers supplying milk to the market.

(2) Only the processors or distributors in the market at the time the agreement or award was made shall be entitled to process or distribute milk in the market, provided that any other processor or distributor,

Persons
entitled
to process
or distribute
milk.

- (a) who complies with the laws relating to the sanitation, weighing, handling and care of milk;
- (b) who has arranged for a supply of milk; and
- (c) who has obtained a licence as a processor or distributor from the Board and a municipal licence where the same is required,

shall be entitled to process or distribute milk in the market or the part thereof designated in his licence and shall be bound by the agreement or award and every other matter relating to the marketing of milk in the same manner as other processors or distributors in the market. 1948, c. 55, s. 10.

11.—(1) If the processors or distributors in any market require additional milk to that provided for in the agreement or award, the producers supplying the market shall, unless it is otherwise provided in the agreement or award, have the right of supplying the additional milk required at the prices determined by the agreement or award, failing which the processors or distributors may obtain the additional milk required as they see fit.

Where
additional
milk
required.

(2) If the producers supplying milk to a market have additional milk to that required to be supplied under the agreement or award, the processors or distributors shall, unless it is otherwise provided in the agreement or award, have the right of purchasing the additional milk at the prices determined by the agreement or award, failing which the producers may dispose of the additional milk as they see fit. 1948, c. 55, s. 11.

Where
additional
milk pro-
duced.

12. When the Minister receives from an association of milk producers who are engaged in supplying milk to processors or distributors in a market a petition asking that for the purpose of defraying the expenses of such association every producer engaged in supplying milk to processors or distributors in such market be required to pay licence fees, the Minister, subject to the approval of the Lieutenant-Governor in Council, may, if he is of the opinion that such association represents at least sixty-six per cent of the producers so engaged, make an order,

Establish-
ment of fund
for pro-
ducers'
associations.

- (a) requiring every producer so engaged to pay to the association licence fees in different amounts and fixing the amounts of such fees payable in instalments;

- (b) requiring every processor and distributor who receives milk from any such producer to deduct the amount of the licence fees of such producer from moneys payable to the producer and to pay such amount to the association; and
- (c) requiring the association to furnish to the Board such information and financial statements as the Board may determine. 1948, c. 55, s. 12 (1); 1950, c. 43, s. 2.

Transportation of milk by producers' co-operatives. Rev. Stat., cc. 59; 304.

13. Where one of the objects of a co-operative corporation under Part XII of *The Companies Act* is to engage in the transportation of milk and the Board issues a certificate to the Minister of Highways that more than three-quarters of the shareholders or members of the corporation are producers supplying milk to a market, no licence under *The Public Commercial Vehicles Act* shall be required by the corporation for the purpose of transporting such milk to the market. 1948, c. 55, s. 13.

Distributors' licences may restrict area of distribution. Prohibition.

14.—(1) Any licence issued under this Act to a distributor may specify one or more distribution areas.

(2) Where one or more distribution areas are specified in a licence, the distributor to whom it is issued shall not distribute milk in any area other than the area or areas so specified. 1950, c. 43, s. 3.

Regulations.

15.—(1) Subject to the approval of the Lieutenant-Governor in Council, the Board may make regulations,

- (a) designating classes of processors and distributors;
- (b) defining areas and designating them as distribution areas;
- (c) providing for the issuing of licences by the Board to transporters and to the designated classes of processors and distributors and fixing the licence fees payable therefor;
- (d) providing for the issuing of temporary licences by the administrative officer;
- (e) prescribing the form of licences and the terms and conditions upon which licences shall be issued, renewed, suspended or revoked;
- (f) prohibiting the persons that are required to be licensed in respect of transporting, processing or distributing milk from engaging in any such business except under the authority of a licence;

- (g) providing for the furnishing of security or proof of financial responsibility by processors and distributors;
- (h) providing for the administration and disposition by the Board of processors' or distributors' bonds or any moneys recovered under any such bond or any moneys or securities furnished as proof of financial responsibility;
- (i) prescribing the terms of payment for milk purchased from producers;
- (j) providing for the payment to marketing agencies of licence fees in different amounts and in instalments by producers represented by marketing agencies and for the collection thereof by processors and distributors;
- (k) prescribing the form of the by-laws of marketing agencies;
- (l) prescribing the conditions under which milk shall be received, handled, transported, stored, delivered or supplied;
- (m) regulating and controlling transporters' routes from producers to processors or distributors, or providing for the re-distribution of producers, processors or distributors on such routes or adding producers, processors or distributors to such routes;
- (n) prohibiting the sale of milk by retailers and others at less than or more than the cost thereof and a reasonable margin for handling and profit;
- (o) providing for the purchase of milk from producers on a quota basis;
- (p) prescribing fair business practices relating to the marketing of milk;
- (q) providing for the regulation and control of the delivery routes of distributors, including the number of deliveries that shall be made in each week and the days upon which deliveries shall be made;
- (r) providing for the weighing, sampling and testing of milk;
- (s) prescribing the types and sizes of containers that shall be used by distributors;
- (t) requiring producers, transporters, processors, distributors and persons who keep for sale or sell milk to furnish to the Board such information or returns as the Board may determine;
- (u) prescribing the books and records that shall be kept by licensees under this Act and providing for the

inspection of such books and records by auditors appointed by the Board;

- (v) prescribing the powers and duties of field-men and inspectors;
- (w) exempting any person or class of persons from this Act or the regulations or any part thereof;
- (x) respecting any other matter necessary or advisable to carry out effectively the purposes of this Act. 1948, c. 55, s. 14 (1); 1949, c. 57, s. 5; 1950, c. 43, s. 4.

Regulations
may be
limited.

(2) Any regulation made under this section may be limited as to time and place. 1948, c. 55, s. 14 (2).

Penalties.

16. Every person who violates any of the provisions of this Act or the regulations, or any order, agreement or award made under this Act shall be guilty of an offence and on summary conviction shall be liable, for a first offence, to a penalty of \$50, and for a second or subsequent offence, to a penalty of not less than \$100 and not more than \$500. 1948, c. 55, s. 15, *amended*.

Injunction
proceedings.

17.—(1) Where it is made to appear from the material filed or evidence adduced that any offence against this Act or the regulations or any order, agreement or award made under this Act has been or is being committed, the Supreme Court or a judge thereof may, upon the application of the Board, enjoin any transporter, processor or distributor from carrying on business as a transporter, processor or distributor, absolutely, or for such period as seems just, and any injunction shall *ipso facto* cancel the licence of the transporter, processor or distributor named in the order during the same period.

Application
may be
ex parte.

(2) The application under subsection 1 may be made without any action being instituted either,

- (a) by an *ex parte* motion for an interim injunction which shall, if granted, remain in full force for ten days from the date thereof unless the time is extended or the originating motion mentioned in clause *b* is sooner heard and determined; or
- (b) by an originating notice of motion which, if an interim injunction has been granted, shall be served within five days and be returnable within ten days from the date of such interim injunction. 1948, c. 55, s. 16.

Provision
for moneys
required.

18. The moneys required for the purposes of this Act shall be paid out of such moneys as may be appropriated therefor by the Legislature. 1948, c. 55, s. 17.

CHAPTER 234

The Mills Licensing Act**1.** In this Act,Interpre-
tation.

- (a) "mill" means a plant in which logs or wood-bolts are initially processed and includes a saw mill and a pulp mill;
- (b) "Minister" means Minister of Lands and Forests;
- (c) "regulations" means regulations made under this Act. 1949, c. 58, s. 1.

2. No person shall construct, operate or increase the productive capacity of a mill without a licence therefor from the Minister. 1949, c. 58, s. 2.

Licence
required.

3. The Lieutenant-Governor in Council may make regulations,

Regulations.

- (a) classifying mills and providing for the issue of licences therefor;
- (b) prescribing the form of licences and the fees to be paid therefor;
- (c) prescribing the term of licences and providing for the transfer, renewal, suspension and cancellation thereof;
- (d) imposing conditions as to the location of mills and the operating methods of licensees, including the disposal of waste or refuse;
- (e) prescribing the precautions that licensees shall take for the prevention of fire and for the safety of life and property;
- (f) prescribing the returns that licensees shall make to the Minister as to their mills and operations, including the sources, species and quantity of materials processed;
- (g) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1949, c. 58, s. 3.

Offences and
penalties.

4. Every person who contravenes this Act or any regulation shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$25 and not more than \$500 for each offence, and in default of payment shall be liable to imprisonment for a period of not more than six months. 1949, c. 58, s. 4.

CHAPTER 235

The Minimum Wage Act

1. In this Act,

Interpre-
tation.

- (a) "Board" means the Industry and Labour Board established under *The Department of Labour Act*; Rev. Stat., c. 95.
- (b) "employee" includes every person who performs any work in any business, trade, work, undertaking or occupation for wages or with the hope or expectation of receiving wages either directly from his employer or indirectly through another person;
- (c) "employer" includes every person who as the owner, proprietor, manager, superintendent or overseer of any business, trade, work or undertaking employs or permits any person to work in such business, trade, work or undertaking;
- (d) "wage" or "wages" includes every form of remuneration for labour performed. R.S.O. 1937, c. 190, s. 1.

2. The Board may arrange for a conference between Conferences. employers and employees or their representatives in any business, trade, work, undertaking or occupation for the purpose of obtaining information as to the prevailing rates of wages and conditions of employment and may accept recommendations from the conference with respect to any matters which may be dealt with by an order of the Board. R.S.O. 1937, c. 190, s. 2.

3. The Board may establish minimum rates of wages for all Minimum rates. employees and generally enact such provisions with respect to conditions of employment as may be deemed necessary for the betterment of the physical, moral and intellectual well-being of employees, and without restricting the generality of the foregoing the Board may make orders and by means of such orders may,

- (a) designate or define any business, trade, work or Designation of business. undertaking or the part or parts thereof to which the order is applicable;
- (b) designate or define the zone or zones within Ontario Zoning. in which any order or part thereof is applicable;

Classifica-
tion of
employees.

- (c) classify employees and separately provide for any one or more classifications with respect to any matter over which the board has authority; R.S.O. 1937, c. 190, s. 3, cls. (a-c).

Minimum
weekly
wage.

- (d) establish a minimum wage for the prevailing weekly work period in the business of any employer or for any other working period which the Board may establish; R.S.O. 1937, c. 190, s. 3, cl. (d); 1946, c. 54, s. 1. (1).

Maximum
hours of
labour.

- (e) establish the maximum number of hours of labour which may regularly be worked in the business of any employer with respect to any minimum wage established; R.S.O. 1937, c. 190, s. 3, cl. (e).

Overtime
wages.

- (f) establish minimum hourly rates of wages for overtime work; R.S.O. 1937, c. 190, s. 3, cl. (f); 1946, c. 54, s. 1 (2).

Short time
wages.

- (g) establish minimum hourly rates of wages for employees who regularly work less than forty hours per week; R.S.O. 1937, c. 190, s. 3, cl. (g); 1946, c. 54, s. 1 (2).

Trade terms.

- (h) define any term used in any order;

Special
payments.

- (i) establish a special method of payment for any classification of employees;

Wage
deductions.

- (j) specify when and under what conditions deductions may be made from the minimum wage established for time lost by employees through illness, holidays, absence from duty or for any other reason and also for special privileges or perquisites resulting from the nature of the work performed. R.S.O. 1937, c. 190, s. 3, cls. (h-j).

Handi-
capped
employee.

4. The Board, without order, may grant written permission to an employer to pay to any employee who is handicapped a wage fixed by it lower than the minimum wage. 1947, c. 101, s. 14.

Amendment
of orders.

5. The Board, without making a new order, may temporarily suspend or vary any of its orders so as to conform to special conditions in any business, and may also, by a new order, suspend, alter, revise or consolidate any of its orders or any order made by the Minimum Wage Board. R.S.O. 1937, c. 190, s. 5, *amended*.

Statutory
agreement
for
minimum
wage.

6. Every employer who permits any employee to perform any work with respect to which a minimum wage is established shall be deemed to have agreed to pay to the employee at least

the minimum wage established and the minimum wage shall be paid to the employee only by cash or by cheque payable at par at the place where the employee performed the work. R.S.O. 1937, c. 190, s. 7.

7. No employee shall be competent to agree to waive or to forego any provision of this Act or of any order made by the Board, and no employer shall be competent to enter into any agreement, arrangement or understanding with an employee or with any other person which results in the whole or any part of the wages paid to an employee or to the Board on behalf of an employee being returned to or accepted by the employer, either directly or indirectly, and every such agreement, arrangement and understanding shall be void. R.S.O. 1937, c. 190, s. 8. Employees may not waive the statute.

8. Every employer who discharges or threatens to discharge or in any way discriminates against an employee who, Intimidation of employees.

- (a) has testified or is about to testify in any proceeding or investigation had or taken under this Act; or
- (b) has given any information to the Board regarding the wages payable to such employee or his fellow-workers in any plant; or
- (c) has initiated or taken part in any proceeding had or taken for the purpose of assisting the Board to establish a minimum wage,

shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$50. R.S.O. 1937, c. 190, s. 9.

9. Every employer affected by an order which establishes minimum wages or maximum hours of labour shall post and keep posted a copy thereof in a conspicuous place where his employees are engaged in their duties. R.S.O. 1937, c. 190, s. 10. Orders to be posted.

10. Every employer shall keep complete, continuous and accurate records setting forth the names, addresses, rates of wages, hours worked, actual earnings of each employee and the age of each employee under eighteen years and such records shall be available at all reasonable times for inspection and examination by any member of the Board and by any inspector of the Department of Labour and every employer shall supply such information and make such returns from time to time as the Board may require, and every employer who fails to keep such records and supply such information and make such returns shall be guilty of an offence. R.S.O. 1937, c. 190, s. 11. Employers' records.

False records.

11. Every employer who makes or causes to be made false or misleading entries in any of the records which he is required to keep by this Act or the regulations or of any order of the Board or who supplies or causes to be supplied false or misleading information to the Board shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$100 and for a second and any subsequent offence may also be imprisoned for a term of not more than six months. R.S.O. 1937, c. 190, s. 12.

Offences and penalties.

12. Every employer who contravenes any order with respect to wages or hours of work shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$25 for each employee affected and in default of payment to imprisonment for a term of not more than six months and for a second and any subsequent offence shall be liable to a penalty of not less than \$50 for each employee affected and in default of payment to imprisonment for a term of not more than one year, and in every case upon conviction shall be ordered to pay to the Board on behalf of the employees affected the difference between the wages actually paid and those established by the Board, and in determining the amount of such arrears if the court finds that the employer has not kept accurate records as required by this Act the employees in question shall conclusively be presumed to have been employed for the maximum number of hours per week permitted and to be entitled to the full weekly wage for the total period of their employment. R.S.O. 1937, c. 190, s. 13.

Offences and penalties.

13. Every employer who contravenes any provision of this Act or of the regulations or of any order of the Board for which no other penalty is provided shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$10. R.S.O. 1937, c. 190, s. 14.

Agreements as to arrears of wages.

14.—(1) The Board may approve an agreement in writing between an employer and an employee providing for the payment in instalments of any wages owing by the employer under any order.

What deemed to be violation of order.

(2) Where such agreement has been approved the failure by the employer to carry out the terms of the agreement shall be deemed to be a violation of the order affecting the employer and employee as of the date of the breach of the agreement. R.S.O. 1937, c. 190, s. 15.

Exception as to domestics and farm labourers.

15. This Act shall not apply to employees engaged as servants in private residences nor engaged in farming operations. R.S.O. 1937, c. 190, s. 16.

CHAPTER 236

The Mining Act**1. In this Act,**Interpre-
tation.

- (a) "agent" where it occurs in Parts VIII and X means any person having, on behalf of the owner, the care or direction of a mine or of any part thereof;
- (b) "Crown lands" does not include land in the actual use or occupation of the Crown, or of any Public Department of the Government of Canada, or of Ontario, or of any officer or servant thereof, or under lease or licence of occupation from the Crown or the Minister of Lands and Forests or the Minister of Mines, or set apart or appropriated by lawful authority for any public purpose or vested in The Ontario Northland Transportation Commission;
- (c) "Department" means Department of Mines;
- (d) "Deputy Minister" means Deputy Minister of Mines;
- (e) "in place" when used in reference to mineral means in the place or position where originally formed in the solid rock, as distinguished from being in loose, fragmentary or broken rock, boulders, float, beds or deposits of gold or platinum-bearing sand, earth, clay, or gravel, or placer;
- (f) "Judge" means Judge of the Mining Court of Ontario;
- (g) "licensee" means a person, mining partnership or company holding a miner's licence issued under this Act or any renewal thereof;
- (h) "machinery" includes steam and other engines, boilers, furnaces, milling and crushing apparatus, hoisting and pumping equipment, chains, trucks, tramways, tackle, blocks, ropes and tools, and all appliances used in or about or in connection with a mine;
- (i) the noun "mine" includes any opening or excavation in, or working of, the ground for the purpose of win-

ning, opening up or proving any mineral or mineral bearing substance, and any ore body, mineral deposit stratum, soil, rock, bed of earth, clay, sand, gravel or cement, or place where mining is or may be carried on, and all ways, works, machinery, plant, buildings and premises below or above ground belonging to or used in connection with the mine, and also for the purposes of Parts VIII and X, any quarry, excavation or opening in the ground made for the purpose of searching for or removal of mineral, soil, rock, quartz, limestone, earth, clay, sand, gravel or cement and any roast-yard, smelting furnace, mill, work or place used for or in connection with crushing, reducing, smelting, refining, or treating any of such substances, except that the provisions of Parts VIII and X shall not apply to office buildings, cookhouses, bunkhouses, recreational centres, dwellings and the grounds used in connection therewith;

- (j) the verb "mine" and the word "mining" include any mode or method of working whereby the soil or earth or any rock, stone or quartz may be disturbed, removed, washed, sifted, roasted, smelted, refined, crushed or dealt with for the purpose of obtaining any mineral therefrom, whether the same may have been previously disturbed or not, and also for the purposes of Parts VIII and X all operations and workings mentioned in clause *i*;
- (k) "minerals" includes gold and silver, all rare and precious metals and coal, natural gas, oil and salt;
- (l) "Mining Court" means Mining Court of Ontario;
- (m) "mining lands" includes lands and mining rights patented or leased under or by authority of any statute, regulation, or Order in Council, respecting mines, minerals or mining, and also lands or mining rights located, staked out, used or intended to be used for mining purposes;
- (n) "mining rights" means the ores, mines and minerals on or under any land where the same are or have been dealt with separately from the surface;
- (o) "Minister" means Minister of Mines;
- (p) "owner" when used in Parts VIII and X includes every person, mining partnership, and company being the immediate proprietor or lessee or occupier of a mine, or of any part thereof, or of any

land located, patented or leased as mining lands but does not include a person, or a mining partnership or company receiving merely a royalty, rent or fine from a mine or mining lands, or being merely the proprietor of a mine or mining lands subject to a lease, grant or other authority for the working thereof, or the owner of the surface rights and not of the ore or minerals;

- (q) "patent" means a grant from the Crown in fee simple or for any less estate made under the Great Seal;
- (r) "prescribed" means prescribed by this Act or by Order in Council or by rule or regulation made under the authority of this Act;
- (s) "recorder" means the mining recorder of the mining division in which the land in respect of which an act, matter or thing is to be done is situate;
- (t) "regulation" means a regulation made by the Lieutenant-Governor in Council under this Act;
- (u) "shaft" includes a pit;
- (v) "surface rights" means land granted, leased or located for agricultural or other purposes, the ores, minerals and mines whereof or under the surface whereof are reserved to the Crown;
- (w) "valuable mineral in place" means a vein, lode or deposit of mineral in place appearing at the time of discovery to be of such a nature and containing in the part thereof then exposed such kind and quantity of mineral or minerals in place, other than limestone, marble, clay, marl, peat or building stone, as to make it probable that the vein, lode or deposit is capable of being developed into a producing mine likely to be workable at a profit. R.S.O. 1937, c. 47, s. 1; 1948, c. 56, s. 1.

2.—(1) Nothing herein shall affect the sale, lease or location, for agricultural or other purposes, of any land opened for sale or free grant under *The Public Lands Act* or any Act, Order in Council or regulation respecting the sale and disposal of such land.

Application to sales, etc., for other purposes. Rev. Stat., c. 309.

(2) Notwithstanding anything in this Act, applicants for mining lands who had prior to the 14th day of May, 1906, complied with the provisions of *The Mines Act*, being chapter 36 of The Revised Statutes of Ontario, 1897, or regulations thereunder respecting applications for such lands, and whose

Saving as to applications for mining lands made prior to 14th May, 1906.

applications were pending before the Department on such date, may be granted title to the same under this Act without staking them out as a mining claim or mining claims, and subject to such conditions as regards the quantity of land or performance of work as the Minister may deem proper. R.S.O. 1937, c. 47, s. 2.

Forms.

3. The Lieutenant-Governor in Council may by regulation prescribe the forms to be used under this Act. R.S.O. 1937, c. 47, s. 3; 1947, c. 66, s. 1.

PART I

ADMINISTRATION

Department
of Mines.

4. The Department of Mines is continued and shall be administered by the Minister of Mines. R.S.O. 1937, c. 47, s. 4.

Deputy
Minister of
Mines.

5.—(1) A Deputy Minister of Mines shall be appointed by the Lieutenant-Governor in Council and shall perform such duties in connection with mines, mining lands, and the mining industry and other matters as may be assigned to him by the Lieutenant-Governor in Council or by the Minister, and in the absence of the Minister, or in the case of a vacancy in the office of the Minister, he shall discharge the duties of the Minister with respect to mines, minerals, mining lands and the mining industry and such other matters as may be so assigned to him.

Powers
of Deputy
Minister.

(2) The Deputy Minister shall have all the powers, rights and authority of an inspector, and such other powers, rights and authority for carrying into effect the provisions of this Act as may be assigned to him by regulation. R.S.O. 1937, c. 47, s. 5.

Adminis-
tration by
Minister.

6.—(1) All public lands for mining purposes and for the purposes of the mineral industry and all regulations made with respect to mines or minerals or mining or mining lands or mining rights, or the mineral industry, shall be administered by the Minister. R.S.O. 1937, c. 47, s. 6 (1).

Execution of
instruments.

(2) All patents, leases, licences or other instruments of title, and all agreements, contracts or other writings relating to mines or minerals or mining lands or mining rights or the mineral industry shall be signed and executed by the Minister or by the Deputy Minister. R.S.O. 1937, c. 47, s. 6 (2); 1938, c. 37, s. 14 (1).

7.—(1) The Lieutenant-Governor in Council may appoint a Provincial Geologist, a Provincial Assayer and an inspector or inspectors, and such other officers and agents as he may deem necessary, who shall be officers of the Department, and shall perform such duties as may be assigned to them by this Act or by regulation. Provincial Geologist, Assayer, inspectors, etc., appointment of.

(2) The Provincial Geologist shall be *ex officio* an inspector. Geologist to be *ex officio* inspector.
R.S.O. 1937, c. 47, s. 7.

8. This Act and *The Mining Tax Act, The Natural Gas Conservation Act, The Unwrought Metal Sales Act, The Well Drillers Act, and The Fuel Supply Act* except so far as it relates to wood, and any regulations made under any of such Acts shall be administered by the Minister. Adminis- tration of certain Acts by Minister. Rev. Stat., cc. 237, 251, 404, 423, 152.
R.S.O. 1937, c. 47, s. 8; 1940, c. 15, s. 1.

9.—(1) The Lieutenant-Governor may appoint for each mining division a mining recorder, who shall be an officer of the Department. Mining recorder.

(2) Where a mining recorder is absent, because of illness or for any other reason, the Minister may appoint a competent person to act as recorder *pro tempore*, and such person shall during such time, have all powers and perform all the duties of a mining recorder in the mining division to which he is appointed. Where mining recorder absent.
R.S.O. 1937, c. 47, s. 9.

10. Every recorder shall keep such books for the recording of mining claims, applications and other entries therein as may be directed by the Minister, and such books shall be open to inspection by any person on payment of a fee of ten cents for each claim or application examined, and every recorder shall also keep displayed in his office a map or maps showing the territory included in his mining division and shall mark thereon all claims as they are recorded, and there shall be no charge for examining such map or maps. Books and maps to be kept by recorder.
R.S.O. 1937, c. 47, s. 10.

11. Every document filed in the recorder's office shall, during office hours, be open to inspection by any one on payment of the prescribed fee. Right to inspect documents.
R.S.O. 1937, c. 47, s. 11.

12. Every copy of or extract from an entry in any of such books, and of any document filed in the recorder's office, certified to be a true copy or extract by the recorder, shall be received in any court as *prima facie* evidence of the matter certified by him without proof of his appointment, authority or signature. Evidence of records.
R.S.O. 1937, c. 47, s. 12.

Employ-
ment of
experts, etc.
Rev. Stat.,
c. 317.

13. Notwithstanding anything in *The Public Service Act* the Minister may employ any professor, instructor, or other person to investigate the mineral resources of Ontario, or for any work in connection with this Act, and may pay him for such services at such rate as may be agreed upon, out of any money appropriated by the Legislature for that purpose. R.S.O. 1937, c. 47, s. 13.

Officers
not to be
interested
in Crown
lands or
mining
claims.

14.—(1) No officer appointed under this Act shall directly or indirectly, by himself or by any other person, purchase or become interested in any Crown lands, mining rights or mining claims, and any such purchase or interest shall be void.

Penalty.

(2) Any officer offending against the provisions of subsection 1 shall forfeit his office and shall, in addition thereto, be liable to a penalty of \$500 for every such offence, to be recovered in any court of competent jurisdiction by any person who sues for the same. R.S.O. 1937, c. 47, s. 14.

Regulations
respecting
common use
of certain
offices.

15. The Lieutenant-Governor in Council may make regulations respecting the offices to be used in common between the Department of Lands and Forests and the Department of Mines, and the services to be rendered to either of the Departments by the other of them, and the officers, clerks, and servants of the Department of Lands and Forests shall render such services to the Department of Mines as may be required of them from time to time, and all maps, books, papers, correspondence, records or other matters or things in the Department of Lands and Forests shall be open to and may be examined by the Minister of Mines or the officers and clerks of the Department of Mines in the discharge of their departmental duties. R.S.O. 1937, c. 47, s. 15.

Certain
officers not
to be sub-
poenaed
without
order of
Judge.

16.—(1) A subpoena shall not issue out of any court, requiring the attendance of the Deputy Minister, the Judge, the Provincial Geologist, the Provincial Assayer, or any inspector, recorder, or other officer, or the production of any document in the official custody or possession of any of them without an order of the court or a judge thereof, or in matters before the Mining Court without a direction of the Judge.

Privilege
as to official
information.

(2) The Deputy Minister, the Judge, the Provincial Geologist, the Provincial Assayer, and any inspector, recorder, or other officer, shall not be bound to disclose any information obtained by him in his official capacity which a member of the Executive Council certifies ought not in the public interest to be divulged or cannot without prejudice to the interests of persons not concerned in the litigation be divulged, and all such information shall be privileged. R.S.O. 1937, c. 47, s. 16.

17. The Judge and every inspector shall be *ex officio* a justice of the peace for every county and district in Ontario and a recorder in his division shall be *ex officio* a justice of the peace for the county or district in which any part of his division lies, and it shall not be necessary that they shall possess any residential or property qualification. R.S.O. 1937, c. 47, s. 17.

18. The Minister or Deputy Minister may, in the prescribed form, authorize any officer, employee or agent of the Department to take affidavits, declarations or affirmations required under this Act and any declaration, affidavit or affirmation taken before the person so authorized shall have the same force and effect as if taken before a commissioner appointed under *The Commissioners for taking Affidavits Act*. 1948, c. 56, s. 2.

Ex officio
justices of
the peace.

Officers
authorized
to take
affidavits.

Rev. Stat.,
c. 57.

19.—(1) A recorder may appoint any number of constables not exceeding four, who shall be constables and peace officers for the purposes of this Act, during the terms and within the mining division for which they are appointed.

Appoint-
ment of
constables
by recorder.

(2) A constable so appointed shall be paid such fees and expenses as may be allowed by the recorder, but such fees shall not exceed \$4 per day for the time certified by the recorder. R.S.O. 1937, c. 47, s. 18.

Fees of
constables.

20. The Lieutenant-Governor in Council may divide the Province into mining divisions and may alter the number, limits and extent thereof. R.S.O. 1937, c. 47, s. 19 (1).

Mining
divisions.

21. Except as in this Act otherwise specially provided the recorder's office shall be the proper office for filing and recording all applications, documents and other instruments required or permitted to be filed or recorded under this Act, affecting any unpatented mining claim or quarry claim or any right, privilege or interest which may be acquired under this Act to or in respect of Crown lands or unpatented mining rights, and all such applications, documents and instruments may, before patent, be filed or recorded in such office, but after patent, *The Registry Act* and *The Land Titles Act* shall respectively apply. R.S.O. 1937, c. 47, s. 20.

Claims and
documents
to be filed
in recorder's
office.

Rev. Stat.,
cc. 336, 197.

22. Where any part of Ontario is not included in a mining division, or if there is no recorder for a mining division, all applications shall be made to the Department, and all duties and powers of the recorder shall be performed and exercised by the Deputy Minister, and all acts, matters and things which in a mining division are to be done by or before a recorder shall be done by or before the Deputy Minister, and all such acts, matters and things which are to be done in the office of the

Vacancy in
office of
recorder.

recorder shall be done at the Department. R.S.O. 1937, c. 47, s. 21.

Minister
to furnish
recorder
with list of
lands
patented.

23. Upon the issue of a patent by the Crown of any mining lands or mining rights, the Minister shall give notice thereof to the recorder of the mining division in which the lands included in the patent are situate, and the recorder shall keep in his office a list of all such lands. R.S.O. 1937, c. 47, s. 22.

Special
mining
divisions.

24. The Lieutenant-Governor in Council may declare any locality to be a special mining division. R.S.O. 1937, c. 47, s. 23 (1).

Licence
required.

25.—(1) No person or company not the holder of a miner's licence shall prospect for minerals upon Crown lands or land of which mining rights are in the Crown, or stake out, record or acquire any unpatented mining claim, or area of land for boring permit, or acquire any right or interest therein. R.S.O. 1937, c. 47, s. 24 (1); 1948, c. 56, s. 3.

Clerks or
employees
not to
require
licence.

(2) A clerk or employee of a licensee performing clerical, manual or other services of like nature shall not be required to be the holder of a miner's licence. R.S.O. 1937, c. 47, s. 24 (2).

Who may
receive
licence.

26.—(1) Any person over eighteen years of age and, subject to subsection 6, any company incorporated or licensed under the laws of Ontario to transact business or hold lands in Ontario, shall be entitled on payment of the prescribed fee to obtain a miner's licence in the prescribed form.

Date
and term of
licence.

(2) The licence shall be dated on the day of the issue thereof and shall expire at midnight on the 31st day of March then next ensuing.

Effect of
licence,
non-trans-
ferable.

(3) The licence shall be effectual throughout Ontario but shall not be transferable.

Licences to
companies.

(4) Licences to companies shall be issued only by the Minister or by the Deputy Minister.

Licences
to
individuals.

(5) Licences to individuals may be issued by the Minister or the Deputy Minister or by any recorder.

Proof
required
before
licence to
company.

(6) A licence shall not be issued to a company if it is incorporated under the laws of Ontario unless it has satisfied the Minister or the Deputy Minister that it is so incorporated, and if it is not so incorporated, unless it has filed with the Department a copy of the licence authorizing the company to transact business or hold land in Ontario verified by the prescribed affidavit of an officer of the company. R.S.O. 1937, c. 47, s. 25 (1-6).

27. Every miner's licence shall be numbered, and shall also be lettered with a letter of the alphabet to indicate the office from which it was issued. R.S.O. 1937, c. 47, s. 26; 1950, c. 44, s. 1. Numbering and lettering of licences.

28. A miner's licence held by a company shall not entitle any shareholder, officer or employee thereof to the rights or privileges of a licensee. R.S.O. 1937, c. 47, s. 27; 1948, c. 56, s. 4. Effect of licence to partnership or company.

29.—(1) A licensee shall be entitled to a renewal of his licence, in the prescribed form, on production of his licence before the expiration thereof and on payment of the prescribed fee. R.S.O. 1937, c. 47, s. 29 (1). Renewal of licence.

(2) Licences to companies may be renewed by the Minister or the Deputy Minister, and licences to individuals may be renewed by the Minister or the Deputy Minister or by any recorder. R.S.O. 1937, c. 47, s. 29 (2); 1948, c. 56, s. 6. who may issue renewals.

(3) The renewal shall bear date on the 1st day of April and shall be deemed to have been issued and shall take effect immediately upon the expiration of the licence of which it is a renewal, or of the last preceding renewal as the case may be. Date and effect of renewal.

(4) The renewal shall bear the same number and letter as the original licence and after it comes into effect it shall be deemed to be the licence of the licensee. R.S.O. 1937, c. 47, s. 29 (3, 4). Form.

(5) The Minister may renew the licence of any person who has held a miner's licence continuously for twenty-five years or more without the payment of the prescribed fee providing application therefor is made to him prior to the expiration of the last renewal. 1939, c. 27, s. 1, *part*. Renewal of licence by Minister.

30.—(1) If a miner's licence is accidentally destroyed or lost, the holder may, on payment of the prescribed fee, obtain a duplicate thereof from the office of the Minister, Deputy Minister or any recorder. Accidental destruction or loss of licence.

(2) Every such duplicate shall be marked "substituted licence" and shall bear the same date and number as the original licence. R.S.O. 1937, c. 47, s. 30. Substituted licence.

31.—(1) No person or company shall apply for or hold more than one miner's licence. Not more than one licence.

(2) A contravention of this section shall be an offence against this Act, but where the Minister is satisfied that there was no improper intent, and upon surrender of the Refund where more than one licence issued.

unnecessary licence or licences, the Minister may relieve from the penalty and may direct a refund of the fee or fees paid. R.S.O. 1937, c. 47, s. 31.

Production
of licence.

32. Every licensee shall upon demand produce and exhibit his licence to an inspector or a recorder. R.S.O. 1937, c. 47, s. 32.

Licence to
date from
application
therefor.

33. Where application for a licence or a renewal of a licence is made during the absence of a recorder from his office, the applicant may leave with the person in charge of the office his application and such documents as he is required to produce in order to obtain the licence or renewal and the prescribed fee, and in every such case the licence or renewal when issued shall be as effective as if obtained at the time of the application, and the licence shall bear that date. R.S.O. 1937, c. 47, s. 33.

Licensee
under
twenty-one
years of age.

34. A licensee under the age of twenty-one years shall, in respect of mining claims, mining lands and mining rights and all matters and transactions relating thereto, have the same rights and be subject to the same obligations and liabilities as if he were of full age. R.S.O. 1937, c. 47, s. 34.

Revocation
of licence for
violation
of Act.

35. The Minister, on the recommendation of the Judge, may revoke the licence of any licensee who is guilty of a wilful contravention of any of the provisions of this Act, and a licence shall not thereafter be issued to such licensee without the authority of the Minister. R.S.O. 1937, c. 47, s. 35.

PART II

MINING CLAIMS

WHAT LANDS OPEN

Where
licensee may
prospect for
minerals.

36. Subject to the provisions herein contained, the holder of a miner's licence may prospect for minerals and stake out a mining claim on any,

(a) Crown lands surveyed or unsurveyed;

(b) lands, the mines, minerals or mining rights whereof have been reserved by the Crown in the location, sale, patent or lease of such lands where the same have been located, sold, patented or leased after the 6th day of May, 1913,

not at the time,

- (c) under staking or record as a mining claim which has not lapsed or been abandoned, cancelled or forfeited; or
- (d) withdrawn by any Act, Order in Council, or other competent authority from prospecting, location or sale, or declared by any such authority to be not open to prospecting, staking out or sale as mining claims. R.S.O. 1937, c. 47, s. 36.

37. A licensee may stake out a mining claim on any land open for prospecting and, subject to the other provisions of this Act, may work such claim and transfer his interest therein to another licensee; but where the surface rights in the land have been granted, sold, leased or located by the Crown, compensation must be made as provided by section 95. R.S.O. 1937, c. 47, s. 37; 1945, c. 13, s. 1; 1947, c. 66, s. 3.

Claim may be staked.

LANDS NOT OPEN

38. No mining claim shall be staked out or recorded upon any land transferred to or vested in the Ontario Northland Transportation Commission, without the consent of the Commission, nor except with the consent of the Minister upon any land,

Land not open for prospecting without consent.

- (a) reserved or set apart as a town site by the Crown;
- (b) laid out into town or village lots on a registered plan by the owner thereof;
- (c) forming the station grounds, switching grounds, yard or right of way of any railway, electric railway or street railway, or upon any colonization or other road or road allowance. R.S.O. 1937, c. 47, s. 38.

39. No mining claim shall be staked out or recorded on any land,

Lands upon which mining claim may not be staked out.

- (a) which, without reservation of the minerals, has been sold, located, leased or included in a licence of occupation; or
- (b) for which a *bona fide* application is pending in the Department of Lands and Forests under *The Public Lands Act* or under any regulation made under that Act or under any other Act or regulation; or
- (c) which has been reserved or set apart by the Department of Lands and Forests for summer resort purposes, except where the Minister of Mines certifies in writing that in his opinion discovery of valuable

Rev. Stat., c. 309.

mineral in place has been made; or R.S.O. 1937, c. 47, s. 39, cls. (a-c).

(d) where the Minister of Lands and Forests or the Minister of Highways certifies that land is required for the development of water power or for a highway or for some other purpose in the public interest and the Minister of Mines is satisfied that a discovery of mineral in place has not been made thereon; or R.S.O. 1937, c. 47, s. 39, cl. (d); 1939, c. 27, s. 2.

1924, c. 15.

(e) in an Indian Reserve, except as provided by *The Indian Lands Act, 1924*. R.S.O. 1937, c. 47, s. 39, cl. (e).

Lands used
or occupied
as gardens,
etc.

40.—(1) Notwithstanding that the mines or minerals therein have been reserved to the Crown, no person or company shall prospect for minerals or stake out a mining claim upon that part of any lot used as a garden, orchard, vineyard, nursery, plantation or pleasure ground, or upon which crops which may be damaged by such prospecting are growing, or on that part of any lot upon which is situated any spring, artificial reservoir, dam or waterworks, or any dwelling house, outhouse, manufactory, public building, church or cemetery, except with the consent of the owner, lessee or locatee of the surface rights, or by order of the recorder or the Judge, and upon such terms as to him may seem just. R.S.O. 1937, c. 47, s. 40 (1); 1948, c. 56, s. 7.

Disputes
as to lands
exempt.

(2) If any dispute arises between the intending prospector and the owner, lessee or locatee as to land which is exempt from prospecting or staking out under subsection 1, the recorder or the Judge shall determine the extent of the land which is so exempt. R.S.O. 1937, c. 47, s. 40 (2).

Valuable
water powers
not included
in claim.

41. A water power lying within the limits of a mining claim, which at low water mark, in its natural condition, is capable of producing one hundred and fifty horsepower or upwards, shall not be deemed to be part of the claim for the use of the licensee, and a road allowance of one chain in width shall be reserved on both sides of the water together with such additional area of land as in the opinion of the recorder or the Judge may be necessary for the development and utilization of such water power. R.S.O. 1937, c. 47, s. 41.

With-
drawal from
prospecting
and sale.

42.—(1) The Lieutenant-Governor in Council may withdraw any lands or mining rights the property of the Crown from prospecting and staking out and from sale or lease.

Reopening
after with-
drawal.

(2) The Lieutenant-Governor in Council may reopen for prospecting and staking out and for sale or lease any lands or mining rights withdrawn. R.S.O. 1937, c. 47, s. 42.

43. The Lieutenant-Governor in Council may direct that the mines and minerals in land or mining rights so withdrawn or in any part thereof may be worked by or on behalf of the Crown under and pursuant to regulations to be made by the Minister. R.S.O. 1937, c. 47, s. 43.

44. Land or mining rights so withdrawn, until reopened by Order in Council, shall remain withdrawn, and shall not be prospected, staked out, occupied or worked except by or on behalf of the Crown. R.S.O. 1937, c. 47, s. 44.

45.—(1) Every officer appointed or acting under this Act, and every assistant of such officer who makes a discovery of valuable mineral upon any lands or mining rights, open to prospecting and staking out as a mining claim, shall stake out and record a parcel thereof of the size and form of a mining claim on behalf of the Crown, and no licence shall be required for that purpose.

(2) No proceeding shall be necessary for such staking out except to plant posts and blaze lines as provided in respect to a mining claim, but the officer or assistant shall mark upon No. 1 post the words "staked out for the Crown", and within the time limited by this Act for recording the claim shall notify the recorder of the staking out, giving the date of staking out and the description of the property.

(3) The recorder upon receiving such notice shall enter the parcel of land upon his record book as staked out on behalf of the Crown, and shall mark it upon his map with the letter "C", and after such staking out the parcel shall not be open to staking out or recording. R.S.O. 1937, c. 47, s. 45.

46. Land or mining rights staked out on behalf of the Crown, and land or mining rights reserved or withdrawn from prospecting, staking out, or sale as mining claims, may be worked, sold, leased or granted by the Crown or worked under an agreement or arrangement with the Crown in such manner and upon such terms and conditions and for such price as may be provided by Order in Council. R.S.O. 1937, c. 47, s. 46, *amended*.

PROVINCIAL FORESTS

47.—(1) Mining lands in a provincial forest shall not be sold or granted but a lease of such lands may be made for a period not exceeding ten years at a rental payable in advance of \$1 per acre for the first year and twenty-five cents per acre for each subsequent year, but the minimum rental shall be \$10 for the first year and \$4 for each subsequent year.

Lease
renewable.

(2) Every such lease shall be renewable in perpetuity for periods of ten years at such rental as the Minister may in each case determine and shall date from the day following the expiration of the lease or the last renewal thereof provided the application therefor is made within ninety days of the expiration of the lease or the last renewal thereof or such further period as the Minister may, in the circumstances of the case, deem proper.

Termination
of lease for
arrears of
rent.

(3) Where payment of the rental under any such lease is in arrears for two years or more, the lease may be terminated by an instrument in writing.

Notice of
termination
of lease.

(4) Where a lease has not been renewed under subsection 2 or where a lease has been terminated under subsection 3, a notice of termination of the lease may be sent to the mining recorder for the mining division in which the lands covered by the lease are situate and to the local master of titles at the land titles office in which instruments affecting the lands covered by the lease may be registered and such officials shall make a record of such notice upon the records of their offices relating to the title to such lands.

Lands vested
in Crown on
termination
of lease.

(5) When any lease is terminated under this section such lease and all rights and powers therein contained as well as all rights and claims of the lessee, his successors or assigns in or to the lands covered by the lease shall cease and such lands shall be vested in the Crown freed and discharged from every claim and shall not be open for prospecting, staking out or leasing until re-opened by the Lieutenant-Governor in Council. 1949, c. 59, s. 1 (1).

Permit under
Rev. Stat.,
c. 144.

48.—(1) Before beginning or carrying on any work prescribed by this Act on any mining claim, the holder thereof in addition to any other requirement shall obtain a written permit entitling him so to do as provided in *The Forest Fires Prevention Act*. R.S.O. 1937, c. 47, s. 48 (1), *amended*.

Timber
licensee
to be com-
pensated.

(2) If a mining claim is included in lands under timber licence or for which a permit has been granted to cut timber, the holder of the claim shall compensate the timber licensee or person holding such permit for his interest in any timber cut or damaged thereon and any dispute between the holder of the mining claim and the timber licensee or person holding such permit in respect of the quantity or value of the timber so cut or damaged shall be disposed of by the Minister of Lands and Forests whose decision shall be final. R.S.O. 1937, c. 47, s. 48 (2).

SIZE AND FORM OF MINING CLAIMS

49. A mining claim in unsurveyed territory shall be laid out with boundary lines running north and south and east and west astronomically and the measurements thereof shall be horizontal, and in a township surveyed into lots or quarter sections or subdivisions of a section, a mining claim shall be such part of a lot or quarter section or subdivision of a section as is hereinafter defined, and the boundaries of all mining claims shall extend downwards vertically on all sides. R.S.O. 1937, c. 47, s. 49.

50. Except in a special mining division:

- (a) A mining claim in unsurveyed territory shall be a square of 40 acres, being 20 chains (1,320 ft.) on each side. Mining claims in unsurveyed territory, how to be laid out.
- (b) In a township surveyed into sections of 640 acres subdivided into quarter sections, or subdivisions containing 160 acres or thereabouts, a mining claim shall consist of the northeast quarter, the northwest quarter, the southeast quarter or the southwest quarter or a quarter section or subdivision, and shall contain 40 acres or thereabouts. Size and form of claims: In un-surveyed territory. In townships surveyed into sections of 640 acres.
- (c) In a township surveyed into lots of 320 acres, a mining claim shall consist of the northwest quarter of the north half, the northeast quarter of the north half, the southwest quarter of the north half, the southeast quarter of the north half, or any like subdivision of the south half, and shall contain 40 acres or thereabouts. In townships surveyed into lots of 320 acres.
- (d) In a township surveyed into lots of 200 acres a mining claim shall consist of the northeast quarter, the southwest quarter, the northwest quarter or the southeast quarter of the lot, and shall contain 50 acres or thereabouts. In townships surveyed into lots of 200 acres.
- (e) In a township surveyed into lots of 150 acres, a mining claim shall consist of the northeast quarter, the southeast quarter, the northwest quarter or the southwest quarter of the lot, and shall contain 37½ acres or thereabouts. In townships surveyed into lots of 150 acres.
- (f) In a township surveyed into lots of 100 acres, a mining claim shall consist of the north half, the south half, the east half or the west half of the lot, and shall contain 50 acres or thereabouts. R.S.O. 1937, c. 47, s. 50. In townships surveyed into lots of 100 acres.

Special
mining
division:
In un-
surveyed
territory.

51. In a special mining division:

(a) A mining claim in unsurveyed territory shall be a rectangle of 20 acres, having a length from north to south of 20 chains (1,320 ft.) and a width from east to west of 10 chains (660 ft.).

In townships
surveyed
into sections
of 640 acres.

(b) In a township surveyed into sections of 640 acres, where the sections have been subdivided into quarter sections or subdivisions, a mining claim shall consist of either the west half or the east half of the northeast quarter, the southeast quarter, the northwest quarter or the southwest quarter of a quarter section or subdivision, and shall contain 20 acres or thereabouts.

In townships
surveyed
into lots of
320 acres.

(c) In a township surveyed into lots of 320 acres, a mining claim shall consist of the northeast quarter of the northeast quarter, the northwest quarter of the northeast quarter, the southeast quarter of the northeast quarter, or the southwest quarter of the northeast quarter, or any like subdivision of the southeast quarter, the southwest quarter or the northwest quarter of the lot, and shall contain 20 acres or thereabouts.

In townships
surveyed
into lots of
200 acres.

(d) In a township surveyed into lots of 200 acres, a mining claim where the side lines of the lots run northerly and southerly shall consist of the northeast quarter of the north half, the southeast quarter of the north half, the northwest quarter of the north half, the southwest quarter of the north half, or any like subdivision of the south half, and where the side lines of the lots run easterly and westerly, the mining claim shall consist of the northeast quarter of the east half, the northwest quarter of the east half, the southeast quarter of the east half, the southwest quarter of the east half, or any like subdivision of the west half, and every such mining claim shall contain 25 acres or thereabouts.

In townships
surveyed
into lots of
150 acres.

(e) In a township surveyed into lots of 150 acres a mining claim shall consist of the north half or the south half of the northeast quarter, the northwest quarter, the southeast quarter or the southwest quarter of the lot, and shall contain $18\frac{3}{4}$ acres or thereabouts.

In townships
surveyed
into lots of
100 acres.

(f) In a township surveyed into lots of 100 acres, a mining claim shall consist of the northeast quarter, the southeast quarter, the northwest quarter or the southwest quarter of a lot, and shall contain 25 acres or thereabouts. R.S.O. 1937, c. 47, s. 51.

52.—(1) In unsurveyed territory an irregular portion of land lying between land not open to be staked out, or bordering on water, may be staked out with boundaries coterminous thereto, but the claim shall be made to conform as nearly as practicable to the prescribed form and area and shall not exceed the prescribed area. Irregular areas in unsurveyed territory, marking boundaries of.

(2) In a surveyed township where, by reason of land covered with water being excluded from the area of a lot, quarter section or subdivision of a section, or by reason of the lot, quarter section or subdivision being irregular in form, or from any other cause, it is impossible to stake out a mining claim of the prescribed area in accordance with the foregoing provisions of this Act, the mining claim shall as nearly as is practicable be of the prescribed form and area, and shall have such, if any, of its boundaries as can be so made coincident with boundary lines of the lot, quarter section or subdivision of a section, and shall have as many as possible of its boundaries which are not so coincident parallel to boundaries of the lot, quarter section or subdivision which are straight lines, and where necessary to procure the prescribed area the mining claim may extend into any part of the lot or quarter section or subdivision of a section, but not into any other lot or quarter section or subdivision of a section, and land lying between parcels of land not open to be staked out or between such land and a boundary or boundaries of the lot, quarter section or subdivision of a section, may be staked out with boundaries coterminous thereto, but the claim shall be made to conform as nearly as practicable to the prescribed form and area and shall not exceed the prescribed area. R.S.O. 1937, c. 47, s. 52 (1, 2). In surveyed townships.

(3) In unsurveyed territory land covered with water may be included in a claim in the same way as land not covered with water; and in a surveyed township, land covered with water which would, if not covered with water, have been comprised in the area of the lot, quarter section or subdivision of a section, or have constituted a lot, quarter section or subdivision of a section, may be included in a claim as if it were in fact part of such lot, quarter section or subdivision of a section; but where a claim includes land covered with or bordering on water there may be reserved to the Crown, the surface rights along the shore not exceeding 200 feet in perpendicular width from the water's edge and such other rights of access and passage to, from and over the water as to the Minister may seem desirable, and in the case of navigable water a lease or licence only to extract the ore or mineral, and not a patent, shall be granted. R.S.O. 1937, c. 47, s. 52 (3); 1945, c. 13, s. 2; 1950, c. 44, s. 2 (1). Claims, including lands covered with water.

Leases under subs. 3 subject to s. 47. (4) A lease issued under subsection 3 shall be subject to section 47. 1950, c. 44, s. 2 (2).

Special staking in surveyed townships.

53.—(1) Where the Minister deems it in the public interest, he may direct that mining claims in a surveyed township shall be staked and recorded in the same manner as mining claims in unsurveyed territory.

Waiving sections 50-52.

(2) Where the Minister deems it inequitable to require compliance with any of the requirements of section 50, 51 or 52 with respect to any mining claim which has been staked and recorded, in a surveyed township, he may waive such requirements.

Surveys.

(3) Every survey of a mining claim coming under this section shall indicate and describe the parts of the lots or sections, according to the original survey of the township, included within the limits of such claim, together with the areas thereof. 1943, c. 14, s. 1.

STAKING OUT CLAIMS

Number of claims per licensee.

54. A licensee shall not in any one licence year in any one mining division or in territory not included in a mining division, stake out or apply for more than nine mining claims. 1939, c. 27, s. 4, *part.*

Staking out and planting.

55.—(1) A mining claim shall be staked out,

- (a) by planting or erecting a post at each of the four corners of the claim, beginning with and marking that at the northeast corner "No. 1", that at the southeast corner "No. 2", that at the southwest corner "No. 3", and that at the northwest corner "No. 4", so that the number shall be on the side of the post toward the post next following it in the order named; R.S.O. 1937, c. 47, s. 54 (1), cl. (a).
- (b) by writing or placing on No. 1 post the name of the licensee staking out the claim, the letter and number of his licence, the date and hour of staking out and, if the claim is situated in a township surveyed into lots, quarter sections or subdivisions of a section, the part thereof comprised in the claim, mentioning the lot and concession or the section by number;
- (c) by writing or placing on No. 2, No. 3 and No. 4 posts the name of the licensee staking out the claim; 1947, c. 66, s. 5.
- (d) by plainly blazing the trees on two sides only where there are standing trees, and cutting the underbrush

along the boundary lines of the claim, or where there are not standing trees, clearly indicating the outlines of the claim, by planting thereon durable pickets not less than 5 feet in height, at intervals of not more than 2 chains (132 feet) or by erecting at such intervals monuments of earth or rock not less than 2 feet in diameter at the base, and at least 2 feet high so that the lines may be distinctly seen. R.S.O. 1937, c. 47, s. 54 (1), cl. (d).

(2) Where at a corner of the claim the nature or conformation of the ground renders the planting or erecting of a post impracticable, such corner may be indicated by planting or erecting at the nearest practicable point a witness post which shall bear the same marking as that prescribed for the corner post at that corner together with the letters "W.P." and an indication of the direction and distance of the site of the true corner from the witness post.

Witness
post.

(3) Every post shall stand not less than four feet above the ground, and shall be squared or faced on four sides for at least one foot from the top, and each side shall measure at least four inches across where squared or faced, but a standing stump or tree may be used as a post if cut off and squared and faced to such height and size, and when the survey is made the centre of the tree or stump where it enters the ground shall be taken as the point to or from which the measurement shall be made.

Mode of
planting,
squaring,
etc., of posts.

(4) The following diagrams are intended to illustrate the method of staking out a claim as mentioned in subsections 1 and 2:

Illustration
of method of
staking.

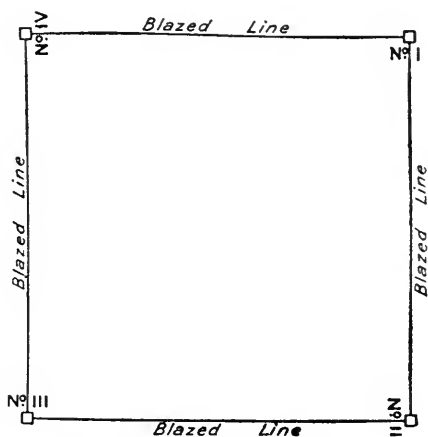


Diagram illustrating s. 55 (1).

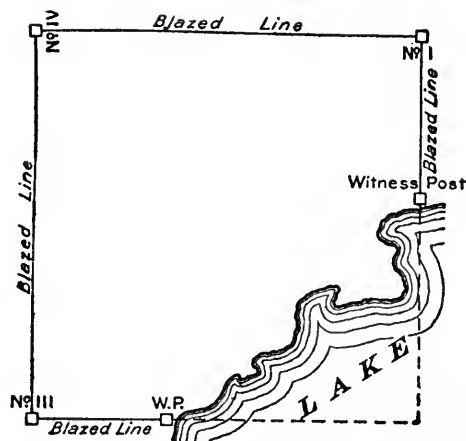


Diagram illustrating s. 55 (2).

R.S.O. 1937, c. 47, s. 54 (2-4).

Forfeiture
of right to
further
staking.

56.—(1) A licensee or other person who for any purpose does any staking out or plants, erects or places any stake, post, or marking upon any land open to prospecting except as authorized by this Act, or causes or procures the same to be done, or who stakes out or partially stakes out any such lands, or causes or procures the same to be done, and fails to record the staking out with the recorder within the prescribed time, shall not thereafter be entitled to again stake out such lands or any part thereof, or to record a mining claim thereon, unless he notifies the recorder in writing of such staking out, partial staking out, or planting, placing or marking and of his abandonment thereof and satisfies the recorder by affidavit that he acted in good faith and for no improper purpose and procures from him a certificate stating that the recorder is satisfied that he so acted. R.S.O. 1937, c. 47, s. 55 (1); 1939, c. 27, s. 5.

Entry of
forfeiture.

(2) The recorder shall enter every such certificate in his books with the date of its issue. R.S.O. 1937, c. 47, s. 55 (2).

Substantial
compliance
to be
furnished
with Act
sufficient.

57. Substantial compliance as nearly as circumstances will reasonably permit with the requirements of this Act as to the staking out of mining claims shall be sufficient. R.S.O. 1937, c. 47, s. 56.

APPLICATIONS TO RECORD

Plan and
application
to be
furnished
to recorder.

58.—(1) A licensee who has staked out a mining claim shall furnish the recorder with,

- (a) a sketch or plan of the mining claim showing the corner posts and the witness posts, if any, and the distance between the posts in feet;

(b) an application in the prescribed form setting forth,

(i) in the case of unsurveyed territory, its locality by such general description and other information as will enable the recorder to indicate the claim on his office map,

(ii) in the case of a surveyed township, the lot, quarter section or subdivision of a section and the portion thereof comprising the claim,

(iii) the day and hour when the claim was staked out, and

(iv) the date of the application; and

(c) the prescribed fee.

(2) A licensee shall comply with the provisions of sub-section 1, Time for compliance.

(a) where the claim is situated in part of the territorial district of Kenora (Patricia Portion), not included in the Patricia, Red Lake or Kenora mining division, not later than sixty days from the date of staking; and

(b) in all other cases, not later than thirty days from the date of staking. 1947, c. 66, s. 6 (1); 1950, c. 44, s. 3.

(3) The application and sketch or plan shall be accompanied by an affidavit, in the prescribed form, made by the licensee who staked out the claim, showing the date of the staking out and stating that the distances given in the application and sketch or plan are as accurate as they could reasonably be ascertained and that all the other statements and particulars set forth and shown in the application and sketch or plan are true and correct, that at the time of staking out there was nothing upon the lands to indicate that they were not open to be staked out as a mining claim, that the deponent verily believes they were so open and that the staking out is valid and should be recorded, and that there are upon the lands or the lot or part lot or section of which they form a part, no buildings, clearing or improvements for farming or other purposes except as set forth in the affidavit, and if any misstatement is made in the affidavit respecting buildings, clearing or improvements the Minister, upon the recommendation of the Judge, may disallow the application and direct the recording of the claim to be cancelled. R.S.O. 1937, c. 47, s. 57 (3); 1939, c. 27, s. 6 (1); 1949, c. 59, s. 2. Affidavit to accompany map.

(4) Where a complaint is made to the Minister by any person that any misstatement is made respecting buildings, clearing or improvements in the affidavit furnished to the Investigation of complaint.

recorder under subsection 3, the Minister may request the Judge to investigate such complaint and report to him and upon any such investigation the Judge shall have the same power to enforce the attendance of witnesses and to compel them to give evidence and produce documents and things as is vested in any court in civil cases. 1939, c. 27, s. 6 (2).

Swearing
of affidavit.

(5) Any affidavit required to be made under subsection 3 or section 80 may be taken before an Ontario land surveyor. R.S.O. 1937, c. 47, s. 57 (4).

Mis-
description,
when not to
invalidate
claim.

(6) Where it appears that there has been an attempt made in good faith to comply with the provisions of this Act, the inclusion of more or less than the prescribed area in a mining claim, or the failure of the licensee to describe or set out in the application, sketch or plan furnished to the recorder the actual area or parcel of land staked out shall not invalidate the claim. R.S.O. 1937, c. 47, s. 57 (6).

Endorse-
ment by
recorder.

59. A licensee at the time of making application to record a mining claim shall produce his licence to the recorder and the recorder shall endorse and sign upon the back of the licence a note in writing of the record of the claim, and no such record shall be complete or effective until such endorsement is made unless upon application to or in any case coming before the Judge he deems it just that compliance with the requirements of this section should be waived. 1947, c. 66, s. 7.

Licensee
recording
in another
division by
error.

60. If by error a licensee records a mining claim in a division other than that in which the claim is situate the error shall not affect his title to the claim, but he shall within fifteen days from the discovery of the error record the claim in the division in which it is situate, and the new record shall bear the date of the former record, and a note shall be made thereon of the error and of the date of rectification. R.S.O. 1937, c. 47, s. 59.

What to be
recorded.

61.—(1) The recorder shall forthwith enter in the proper book in his office the particulars of every application to record a mining claim which he deems to be in accordance with this Act, unless a prior application is already recorded and subsisting for the same, or for any substantial portion of the same lands or mining rights, and he shall file the application, sketch or plan and affidavit with the records of his office; and every application proper to be recorded shall be deemed to be recorded when it is received in the recorder's office, if all requirements for recording have been complied with, notwithstanding that the application may not have been immediately entered in the record book.

(2) If an application is presented which the recorder deems to be not in accordance with this Act, or which is for lands or mining rights which or any substantial portion of which are included in a subsisting recorded claim, he shall not record the application, but shall, if desired by the applicant, upon receiving the prescribed fee, receive and file the application, and any question involved may be adjudicated as provided in this Act; but such filing shall not be deemed a dispute of the recorded claim, nor shall it be noted or dealt with as such, unless a dispute verified by affidavit is filed with the recorder by the applicant or by another licensee on his behalf as provided in section 62. R.S.O. 1937, c. 47, s. 60 (1, 2). Procedure when refused.

(3) As soon as reasonably possible after the recording of the mining claim, and not later than six months thereafter, the holder of the claim shall affix or cause to be affixed securely to each of the corner posts of the claim, a metal tag plainly marked or impressed with the recorded number and letter or letters of the claim, and the recorder shall supply such numbered tags free of charge. Tagging claim posts after recording.

(4) Upon receipt of a written report by an inspector or other officer appointed under this Act that the metal tags have not been affixed within the prescribed time or such further time as may be authorized by the Judge under section 89, the recorder shall cancel the claim, and shall by registered letter mailed not later than the next day, notify the holder thereof of his action and the reason therefor. 1947, c. 66, s. 8. Cancellation of claim where metal tags not affixed.

DISPUTING APPLICATIONS

62.—(1) A dispute in the prescribed form, verified by affidavit in the prescribed form, may be filed with the recorder by a licensee alleging that any recorded claim is illegal or invalid in whole or in part, and if the disputant or the licensee in whose behalf he is acting claims to be entitled to be recorded for or to be entitled to any right or interest in the lands or mining rights, or in any part thereof comprised in the disputed claim the dispute shall so state, giving particulars, and the recorder shall, upon payment of the prescribed fee, receive and file such dispute, and shall enter a note thereof upon the record of the disputed claim. Dispute of recorded claim.

(2) A copy of the dispute and affidavit shall be left by the disputant with the recorder who shall not later than the next day after the filing of the dispute transmit such copy by registered post to the recorded holder or holders of the mining claim affected thereby, and if the copy is not left, the recorder may refuse to file or note the dispute or Copy to be sent to recorded holder.

may collect from the disputant ten cents per folio for making the copy.

Address
for service of
disputant.

(3) A dispute shall not be received unless it contains or has endorsed thereon an address for service at some place not more than five miles distant from the recorder's office, and subsections 4 and 5 of section 129 shall apply in respect to service upon the disputant.

Not to be
received
after
certificate
issued.

(4) A dispute shall not be received or entered against any claim after a certificate of record thereof has been granted, nor except by leave of the judge after the validity of the claim has been adjudicated upon by the recorder or by the Judge, or after it has been on record for sixty days and has already had a dispute entered against it. R.S.O. 1937, c. 47, s. 61.

CERTIFICATE OF RECORD

Certificate of
record.

63.—(1) When a mining claim not in a special mining division has been recorded for sixty days, the recorder shall, upon application of the holder of the claim, give a certificate of record in the prescribed form, provided that there is no dispute standing against the claim, and the surface rights compensation, if any, has been paid or secured, and unless by reason of an order, pending proceeding or other special matter of thing, it would be improper to give such certificate.

Certificate
as to portion
of claim.

(2) If a portion of the claim is unaffected by any matter or reason mentioned in subsection 1, the recorder may, if he deems proper, give a certificate of record as to such portion.

Claim in
unsurveyed
territory to
be surveyed.

(3) A certificate of record shall not be issued in respect of a claim in unsurveyed territory until the claim has been duly surveyed and the plans thereof filed as provided in section 105. R.S.O. 1937, c. 47, s. 62.

Effect of
issue and
delivery of
certificate
of record.

64. The certificate of record, in the absence of mistake or fraud, shall be final and conclusive evidence of the performance of all the requirements of this Act, except working conditions, in respect of the mining claim up to the date of the certificate, and thereafter the mining claim shall not in the absence of mistake or fraud be liable to impeachment or forfeiture except as expressly provided by this Act. R.S.O. 1937, c. 47, s. 63.

Cancelling
certificate of
record issued
by mistake,
etc.

65. Where the certificate of record has been issued in mistake or has been obtained by fraud, the Judge shall have power to revoke and cancel it on the application of

the Crown or an officer of the Department, or of any person interested. R.S.O. 1937, c. 47, s. 64.

RIGHTS OF LICENSEE

66. The staking out or the filing of an application for, or the recording of a mining claim, or all or any of such acts, shall not confer upon a licensee any right, title, interest or claim in or to the mining claim, other than the right to proceed, as in this Act provided to obtain a certificate of record and a patent from the Crown, and prior to the issue of a certificate of record the licensee shall be merely a licensee of the Crown, and after the issue of the certificate and until he obtains a patent he shall be a tenant at will of the Crown in respect of the mining claim. R.S.O. 1937, c. 47, s. 66.

67.—(1) Every licensee who stakes out and records a mining claim may obtain from the recorder two free assay coupons on recording it and two additional free assay coupons on recording each forty days work thereafter and on forwarding or delivering, charges prepaid, samples from the mining claim to the Provincial Assayer, Toronto, together with the required number of coupons, as provided in the regulations, shall be entitled to have such samples assayed without charge.

(2) Every free assay coupon shall be valid only for a period of two years after the date of issue thereof. s. 8.

68.—(1) Where the recorded holder of a mining claim abandons the claim, or where the claim is cancelled or forfeited under this Act, he may take from the claim any buildings, structures, machinery and chattels or personal property within six months after such abandonment, cancellation or forfeiture, or within such further time as may be fixed by the Judge, and any such buildings, structures, machinery, and property remaining on the claim after the expiry of such time shall belong to the Crown in right of Ontario. R.S.O. 1937, c. 47, s. 68 (1); 1939, c. 27, s. 7.

(2) Where at the time of the staking of any mining claim either before or after the coming into force of this subsection, any building or other structure is located on such claim, such building or other structure shall, subject to subsection 1, belong to the Crown in right of Ontario and may be sold or otherwise disposed of by the Minister upon such terms and conditions as he may deem expedient. R.S.O. 1937, c. 47, s. 68 (2).

69. The staking or recording of a mining claim shall not confer upon the licensee the right to sell or otherwise dispose of

Rights in claim.

Free assays.

Validity of coupons.

Where claim abandoned, cancelled or forfeited.

Building or structure on mining claim.

Disposal of sand, gravel and stone.

of any sand, gravel or stone located thereon and all such sand, gravel and stone shall be reserved to the Crown together with the right of access thereto until title to the claim is obtained by patent or lease and until the issue of a patent or lease the Minister may in the public interest and for public purposes use or dispose of any such sand, gravel or stone in such manner and upon such terms and conditions as he may deem proper. 1939, c. 27, s. 8 (1).

70. Where, after the 2nd day of April, 1931, land is staked out and applied for as a mining claim but for use other than as mining land or the purposes of the mineral industry within the meaning of section 6, the Lieutenant-Governor in Council may direct that the claim be cancelled, and on the filing of a copy of an Order in Council in that behalf with the recorder for the mining division in which the land is situate, the claim shall be cancelled and annulled. R.S.O. 1937, c. 47, s. 39, cl. (f).

ADDRESS FOR SERVICE

Address
for service
to be on
application
for claim,
etc.

71.—(1) Every application for a mining claim and every other application and every transfer or assignment of a mining claim or of any right or interest acquired under this Act shall contain, or have endorsed thereon, the place of residence and post office address of the applicant, transferee or assignee, and also, when he is not a resident in Ontario, the name, residence and post office address of some person resident in Ontario upon whom service may be made.

Irregular
documents
not to be
filed.

(2) No such application, transfer or assignment shall be filed or recorded unless it conforms with subsection 1.

Substituting
new agent
for service.

(3) Another person resident in Ontario may be substituted as the person upon whom service may be made by filing in the office in which any such application, transfer or assignment is filed or recorded, a memorandum setting forth the name, residence and post office address of such other person, and such substitution may be made from time to time as occasion may require.

Service upon
agent to be
sufficient.

(4) Service upon the person named as the person upon whom service may be made, unless another person has been substituted for him under subsection 3, and in case of such substitution upon the person substituted shall have the same effect as service upon the person whom he represents.

General
application
of section.

(5) Subsection 4 shall apply to every notice, demand or proceeding in any way relating to a mining claim or to mining rights or to any other right or interest which may be acquired under this Act. R.S.O. 1937, c. 47, s. 69.

TRUSTS, AGREEMENTS AND TRANSFERS

72.—(1) Notice of a trust, express, implied or constructive, ^{Claim} relating to any unpatented mining claim shall not be entered ^{"in trust"} on the record or be received by a recorder.

(2) Describing the holder of the mining claim as a trustee, ^{Describing licensee as trustee, etc., effect of.} whether the beneficiary or object of the trust is mentioned or not, shall not impose upon any person dealing with such holder, the duty of making any inquiry as to his power to deal therewith, but the holder may deal with the claim as if such description had not been inserted.

(3) Nothing in this section shall relieve the holder of the mining claim who is in fact a trustee thereof or of any part or share thereof or interest therein, from liability as between himself and any person, mining partnership or company for whom he is a trustee, but such liability shall continue as if this section had not been enacted, nor shall any provision in this Act relieve the holder from any personal liability or obligation. R.S.O. 1937, c. 47, s. 70. ^{Saving of rights of others.}

73.—(1) No person shall be entitled to enforce any claim, ^{Agreements and transfers, necessity for writing.} right or interest, contracted for or acquired before the staking out, to or in or under any staking out or recording of a mining claim or of any mining lands or mining rights done in the name of another person unless the fact that the first-mentioned person is so entitled is made to appear by a writing signed by the holder of the claim or by the licensee by whom or in whose name the staking out or recording was done or the evidence of the first-mentioned person is corroborated by some other material evidence, and where a right or interest is so made to appear *The Statute of Frauds* shall not apply. ^{Rev. Stat., c. 371.}

(2) No person shall be entitled to enforce any contract, ^{Sales or transfers after staking out.} made after the staking out, for sale or transfer of a mining claim or any mining lands or mining rights, or any interest in or concerning the same, unless the agreement or some note or memorandum thereof is in writing signed by the person against whom it is sought to enforce the contract or by his agent thereunto by him lawfully authorized. R.S.O. 1937, c. 47, s. 71.

74. A transfer of an unpatented mining claim or of any interest therein may be in the prescribed form and shall be signed by the transferor or by his agent authorized by instrument in writing. R.S.O. 1937, c. 47, s. 72. ^{Transfer, form of.}

RECORDING DOCUMENTS

75. Except as in this Act otherwise expressly provided, no transfer or assignment of or agreement or other instrument ^{Recording instruments.}

affecting a mining claim or any recorded right or interest acquired under this Act, shall be entered on the record or received by a recorder unless it purports to be signed by the recorded holder of the claim or right or interest affected or by his agent authorized by recorded instrument in writing, nor shall any such instrument be recorded without an affidavit in the prescribed form, attached to or endorsed thereon, made by a subscribing witness to the instrument. R.S.O. 1937, c. 47, s. 73.

Priority.

76. After a mining claim or any other right or interest acquired under this Act has been recorded every instrument other than a will affecting the claim or any interest therein shall be void as against a subsequent purchaser or transferee for valuable consideration without actual notice unless such instrument is recorded before the recording of the instrument under which the subsequent purchaser or transferee claims. R.S.O. 1937, c. 47, s. 74.

Recording
to be notice.

77. The recording of an instrument under this Act shall constitute notice of the instrument to all persons claiming any interest in the claim subsequent to such recording, notwithstanding any defect in the proof for recording, but nevertheless it shall be the duty of the recorder not to record except upon the proof required by this Act. R.S.O. 1937, c. 47, s. 75.

Where
actual notice
to prevail.

78. Priority of recording shall prevail unless before the prior recording there has been actual notice of the prior instrument by the party claiming under the prior recording. R.S.O. 1937, c. 47, s. 76.

Recording
orders and
judgments.

79.—(1) The recorder shall enter upon the record of any unpatented mining claim or other recorded right or interest a note of any order or decision made by him affecting the same, giving its date and effect and the date of the entry, and he shall upon receiving with the prescribed fee, an order or decision of the Judge, or an order, judgment or certificate in an appeal from him, or a certified or sworn copy thereof, file the same and enter a note thereof upon the record of the claim or right or interest affected thereby.

Recording
certificate of
lis pendens.

(2) In a proceeding calling in question any interest in an unpatented mining claim or other recorded right or interest the Judge or recorder may issue a certificate in the prescribed form, and upon receipt thereof and payment of the prescribed fee the recorder shall file and note it as herein above directed.

Filing
certificate
to be notice.

(3) The filing of a certificate shall be actual notice to all persons of the proceeding.

(4) The certificate, and the filing and noting thereof, shall be of no effect for any purpose whatever after the expiration of ten days from the date of filing unless within that time an order continuing the certificate is obtained from the Judge or the recorder, and any person interested may at any time apply to the Judge for an order vacating the certificate.

Duration of certificate of *lis pendens*.

(5) On receipt by the recorder of such order he shall forthwith transmit by registered post a copy of the order to every recorded holder of an interest in the mining claim.

Notification of continuance or vacating of *lis pendens*.

(6) A copy of a writ of execution certified by the sheriff of the county or district, or a bailiff of a division court therein, to be a true copy of a writ in his hands may be filed with the recorder, and the recorder, upon receiving the prescribed fee and being given the number or description of the claim, shall enter a note of such execution upon the record of each claim of which the execution debtor is the recorded holder or in which he has a recorded interest, and from and after, but not before, such entry, the execution shall bind all the right or interest of the execution debtor in the claim, and after such entry the sheriff or bailiff shall have power to sell and realize upon such right or interest in the same way as goods and chattels may be sold and realized upon under execution, and a transfer from the sheriff or bailiff to the purchaser may, upon the latter becoming, if he is not before, a licensee, be recorded in like manner and with the same effect as a transfer from the execution debtor.

Execution against claims, etc.

(7) Such certified copy of the writ of execution may be obtained from the sheriff or bailiff on payment of a fee of \$1, which fee, together with the fee paid for recording the execution, shall be added to the execution debt.

Certified copy, fee therefor.

(8) After entry of such execution upon the record of the claim the sheriff, bailiff or the execution creditor may do anything which the execution debtor could do to keep the claim or interest in or restore it to good standing, and shall be entitled to add the necessary expense thereof to the execution debt.

Keeping claim in good standing after entry of execution.

(9) Such execution may be discharged by recording a certificate from the sheriff or bailiff that it has been satisfied, or by recording a release from the execution creditor, or by obtaining and filing an order of the Judge directing its removal. R.S.O. 1937, c. 47, s. 77.

Discharge of execution.

WORKING CONDITIONS

80.—(1) The recorded holder of a mining claim heretofore or hereafter recorded shall, within five years immediately fol-

Working conditions on mining claims.

lowing the recording thereof, perform or cause to be performed thereon work which shall consist of stripping or opening up mines, sinking shafts or other actual mining operations to the extent of two hundred days work of not less than eight hours per day, which work shall be performed as follows:

- (a) First period of at least forty days not later than one year immediately following the recording of the claim.
- (b) Second period of at least forty days not later than two years after date of recording.
- (c) Third period of at least forty days not later than three years after date of recording.
- (d) Fourth period of at least forty days not later than four years after date of recording.
- (e) Fifth period of at least forty days not later than five years after date of recording.

Work done within earlier period and allowance for excess.

(2) The work may be completed in a less period of time than herein specified, and if more work is performed by or on behalf of the recorded holder than is herein required during the first year or in any subsequent year, the excess, upon proof of the work having been performed, shall be credited by the recorder upon the work required to be done during any subsequent year. 1947, c. 66, s. 10, *part*.

Report of holder upon work.

(3) The recorded holder of a mining claim shall, not later than ten days after each of the periods specified, make a report in the prescribed form as to the work done or caused to be done by him during such period, verified by affidavit in the prescribed form, and the report shall show in detail,

- (a) the location, nature and extent of the work;
- (b) the names and addresses of the men who performed the work; and
- (c) the dates upon which each man worked in its performance,

and in the case of diamond or other core drilling, the report shall be accompanied by a core log in duplicate indicating the footages of the rock types encountered, and the angle and direction of the drill hole. 1947, c. 66, s. 10, *part*; 1949, c. 59, s. 3.

Certificate of performance.

(4) The recorder, if satisfied that the prescribed work has been duly performed, may grant a certificate in the prescribed form, but he may first, if he deems proper, inspect or order the inspection of the work, or otherwise investigate the question of

its sufficiency and such certificate, in the absence of fraud or mistake, shall be final and conclusive evidence of the due performance of the work therein certified, but where it has been issued in mistake or obtained by fraud the Judge shall have power to revoke and cancel it upon the application of the Crown or an officer of the Department or any person interested.

(5) The decision of the Judge as to the due performance of work shall be final. 1947, c. 66, s. 10, *part.* Decision of Judge final.

(6) A licensee may perform or cause to be performed on one or more claims all of the work required to be performed in respect of not more than nine contiguous claims recorded in his name, and the reports of work and affidavits to be filed in respect of such work shall indicate the claim or claims on which the work was performed and the claim or claims upon which it is to be applied. Work to be performed on claims.

(7) Where the work is diamond drilling and the drill core is $\frac{7}{8}$ of an inch or more in diameter, or where the work is underground development consisting of shaft sinking, cross-cutting or drifting, the licensee may make application to the Minister for permission to perform such work on one or more claims for a group of not more than eighteen contiguous claims recorded in the licensee's name, and the work may be recorded in the same manner as provided in subsection 6, Idem.

(a) if the Minister issues a grouping certificate in the prescribed form; and

(b) if the grouping certificate is filed in the office of the recorder before the work is commenced. 1950, c. 44, s. 4 (1).

(8) The construction of houses or roads or other like improvements shall not constitute "actual mining operations" within the meaning of this section. Certain works not regarded.

(9) Work performed on a mining claim located in those parts of the territorial district of Kenora (Patricia Portion), not included in the Red Lake or Kenora mining division, between the date of staking the claim and the date of recording the claim may be reported in the same manner as if it had been performed after the recording. 1947, c. 66, s. 10, *part.* Work done before recording.

81.—(1) The survey of a mining claim made in pursuance of section 105 or 106, on the plan and field notes thereof being filed with the mining recorder within the prescribed time, shall count as forty days work on the surveyed claim, except in respect of the work required by subsection 1 of section 80 to be done within one year immediately following the recording of the claim. Survey to count as work,

before plans
filed.

(2) On receipt of an affidavit by an Ontario land surveyor that he has made a survey of a mining claim within the period during which any work is required by this Act to be done on such claim, except in respect of the work required by subsection 1 of section 80 to be performed within one year immediately following the recording of the claim, and an undertaking of such surveyor that he will forward or cause to be forwarded to the recorder not later than two months after the close of the period for doing the work, plans and field notes of the survey, the recorder may enter upon the record of the claim forty days work and he may cancel the entry in default of receipt of such plans and field notes within such period of two months. 1947, c. 66, s. 10, *part*.

Diamond
or other
core drills.

(3) Boring by a diamond or other core drill shall count as work,

(a) where the core from the drill is less than $\frac{7}{8}$ of an inch in diameter, at the rate of one day's work for each 2 feet of boring; and

(b) where the core from the drill is $\frac{7}{8}$ of an inch or more in diameter, at the rate of one day's work for each foot of boring. 1949, c. 59, s. 4.

Compressed
air; power
driven rock
drill.

(4) Work done by a compressed air drill or other power driven rock drill of a type approved by the Minister shall count as work at the rate of two days work in respect of each man necessarily employed in operating the drill for each day of his employment. 1947, c. 66, s. 10, *part*.

Surveys.

(5) A geophysical survey, satisfactory to the Minister, of a mining claim, may be recorded as work on such claim, subject to the following:

(a) ground surveys at the rate of four days work in respect of each man necessarily employed in the survey for each day of his employment; and

(b) airborne magnetic surveys at the rate of twenty days work in respect of each mile of continuous recordings,

but not more than a total of forty days work may be recorded in respect of each claim, and credit for such work shall be cancelled by the recorder unless full reports and plans in duplicate, satisfactory to the Minister, are submitted to and approved by him within sixty days of the recording of such work. 1948, c. 56, s. 9 (2).

Geological
survey to
count as
work.

(6) A geological survey, satisfactory to the Minister, of a mining claim may be recorded as work on such claim at the rate of four days work in respect of each man necessarily employed in such survey for each day of such employment, not

exceeding a total of forty days work in respect of each claim, but credit for the work shall be cancelled by the recorder unless full reports and plans of the survey, satisfactory to the Minister, are submitted to and approved by the Minister within sixty days of the recording of such work.

(7) The actual cost of stripping by power driven mechanical equipment or equipment other than manual labour may be recorded as work on a mining claim at the rate of one day's work for each \$5 so spent not exceeding one hundred days work in respect of each claim, but credit for such work shall be cancelled unless proof of such actual cost is submitted to and accepted by the Minister within thirty days of the recording of such work. 1947, c. 66, s. 10, *part*. Power stripping.

(8) Subsection 6 of section 80 shall not apply to geological and geophysical work, and for the purposes of this Act, such work shall be deemed to have been performed equally on each claim actually covered by the survey, and shall be recorded accordingly, and in no other way. 1948, c. 56, s. 9 (3). Certain work excepted from s. 80 subs. 6.

82. In computing the time within which work upon a mining claim is required to be performed, the following periods of time shall be excluded: Computing time for performance of working conditions.

(a) all time which by an Order in Council or regulation is excluded;

(b) if a permit under *The Forest Fires Prevention Act*, which is necessary for the beginning or carrying on of the work under this Act, is refused or the performance of such work is prohibited under that Act, the time during which such refusal or prohibition subsists. 1945, c. 13, s. 6. Rev. Stat., c. 144.

83.—(1) If by reason of pending proceedings or incapacity from illness of the holder of a mining claim, the work is not performed or the money required for patent or lease is not paid within the prescribed time, the recorder may extend the time for the performance of such work or the payment of such money for periods not exceeding six months. 1939, c. 27, s. 10, *part*; 1944, c. 37, s. 2 (1); 1947, c. 66, s. 11. Extension of time for work.

(2) Where such work has not been performed or payment for patent or lease has not been made because of the incapacity from illness of the holder of such claim, the recorder may extend the time only upon the production and filing with him of a certificate of a duly qualified medical practitioner indicating that such holder has by reason of illness been rendered incapable of performing such work or paying such money. 1939, c. 27, s. 10, *part*; 1944, c. 37, s. 2 (2). On production of medical certificate.

Work
done during
extension.

(3) Work performed within any such extended period shall be deemed to have been duly performed under section 80. R.S.O. 1937, c. 47, s. 80 (2).

Pro-
portionate
contri-
bution by
co-owners.

84.—(1) Where two or more persons are the holders of an unpatented mining claim, each of them shall contribute proportionately to his interest, or as they may otherwise agree between themselves, to the work required to be done thereon or to a survey, patent or the first year's rental of a lease, and in case of default by any holder the Judge upon the application of any other holder and upon notice to and after hearing all persons interested or such of them as appear, may make an order vesting the interest of the defaulter in the other co-owners or in any of them upon such terms and conditions and in such proportions as he may deem just.

Application
of subs. 1.

(2) Subsection 1 shall apply to all mining claims staked out or applied for on or after the 14th day of May, 1906, or before that day under regulations made under *The Mines Act*, being chapter 36 of the Revised Statutes of Ontario, 1897. R.S.O. 1937, c. 47, s. 81.

Charge
of person
doing work
on mining
claim.

85. Where the holder of any interest in a mining claim has made default in payment for work performed thereon by a person not the holder of an interest in the mining claim, the Judge, upon the application of such person and upon notice to and after hearing all persons interested, or such of them as appear, may make an order vesting the interest in the mining claim of the holder in default, or any part of such interest, in the applicant. R.S.O. 1937, c. 47, s. 82.

ABANDONMENT

Right of
licensee to
abandon.

86.—(1) A licensee may, at any time, abandon a mining claim by giving notice in writing in the prescribed form to the recorder of his intention so to do.

Entry
of note of
abandon-
ment.

(2) The recorder shall enter a note of such abandonment upon the record of the claim with the date of the receipt of the notice and shall forthwith post up in his office a notice of the abandonment, marked with the date of the posting up thereof, and thereupon all interest of the licensee in such claim shall cease and determine, and the claim shall, on and after, but not before the eleventh day after such posting up, inclusive of the day of posting up, be open for prospecting and staking out. R.S.O. 1937, c. 47, s. 83.

Effect
of non-
compliance
with Act or
direction of
recorder as
abandon-
ment.

87. Non-compliance by the licensee with any requirement of this Act as to the time or manner of the staking out and recording of a mining claim or with a direction of the recorder

in regard thereto, within the time limited therefor, shall be deemed to be an abandonment, and the claim shall, without any declaration, entry or act on the part of the Crown or by any officer, unless otherwise ordered by the Judge be forthwith opened to prospecting and staking out. R.S.O. 1937, c. 47, s. 84.

FORFEITURE

88.—(1) Except as provided by section 89, all the interest of the holder of a mining claim before the patent thereof has issued shall, without any declaration, entry or act on the part of the Crown or by any officer, cease and the claim shall forthwith be open for prospecting and staking out, Forfeiture of mining claim.

- (a) if the licence of the holder has expired, and has not been renewed;
- (b) if, without the consent in writing of the recorder or Judge, or for any purpose of fraud or deception or other improper purpose the holder removes or causes or procures to be removed any stake or post forming part of the staking out of such mining claim, or for any such purpose changes or effaces or causes to be changed or effaced any writing or marking upon any such stake or post;
- (c) if the prescribed work is not duly performed;
- (d) if any report under subsection 3 of section 80 is not made and deposited with the recorder as therein required;
- (e) if the application and payment for the patent required by sections 97 and 98 are not made within the prescribed time. R.S.O. 1937, c. 47, s. 85 (1); 1947, c. 66, s. 12.

(2) No person other than the Minister or an officer of the Department, or a licensee interested in the property affected shall be entitled to raise any question of forfeiture except by leave of the Judge, and proceedings raising questions of forfeiture shall not be deemed to be or be entered as disputes under section 62. R.S.O. 1937, c. 47, s. 85. Proceedings as to forfeiture.

89.—(1) Where forfeiture or loss of rights has occurred under subsection 4 of section 61 or section 88, the Judge may, upon such terms as he may deem just, make an order relieving the person in default from such forfeiture or loss of rights, and upon compliance with the terms, if any, so imposed the interest or rights forfeited or lost shall revert in the person so relieved, but as a term of such order in the case mentioned in Relief against forfeiture.

clause *a* of subsection 1 of section 88, the holder of the claim shall obtain a special renewal licence, which shall be issued only on payment of twice the prescribed licence fee, and in the case mentioned in clause *d* of the said subsection the holder shall file a proper report and pay therewith a special fee of \$3. R.S.O. 1937, c. 47, s. 86 (1); 1944, c. 37, s. 3 (1); 1947, c. 66, s. 13 (1).

Record of
forfeiture.

(2) The recorder, upon any forfeiture or abandonment of or loss of rights in a mining claim, shall forthwith enter a note thereof, with the date of entry, upon the record of the claim and mark the record of the claim "Cancelled", and shall forthwith post up in his office a notice of cancellation. R.S.O. 1937, c. 47, s. 86 (2).

Extension
of time for
performance
of work or
payment of
money.

(3) On application to him by an interested holder not earlier than thirty days prior to the time forfeiture or loss of rights would occur, as provided in subsection 4 of section 61 or section 88, the Judge may extend the time for,

(a) affixing the metal tags to the corner posts of the claim;

(b) performing any work required to be performed; or

(c) paying the money required for patent or lease. 1947, c. 66, s. 13 (2).

Report of
performance,
when made.

(4) Where the Judge under subsection 1 or 3 extends the time for performing the work, the report of the performance thereof shall be made within such extended time. 1939, c. 27, s. 11; 1944, c. 37, s. 3 (2).

Staking
after for-
feiture or
loss of rights.

(5) Where forfeiture or loss of rights has occurred under section 88 or any other section of this Act, the lands, mining rights or mining claims so forfeited shall not be open for staking until seven o'clock standard time in the forenoon of the day immediately following that upon which forfeiture occurred. R.S.O. 1937, c. 47, s. 86 (4).

Interest of
joint holder
on expiry of
his licence.

90. In the case of joint holders where the interest of a holder has ceased by reason of the expiration of his licence, such interest shall, if the Judge so directs, pass to and vest in the other holders in proportion to their interests in the claim. R.S.O. 1937, c. 47, s. 88.

Death of
licensee
before
recording
claim, or of
holder before
patent.

91. Where a licensee in whose name a mining claim has been staked out, dies before the claim is recorded, or where the holder of a claim dies before issue of the patent or lease for the claim, no other person shall, without leave of the Judge, be entitled to stake out or record a mining claim upon any part of the same lands or to acquire any right, privilege or interest

in respect thereof within twelve months after the death of such licensee or holder, and the Judge may at any time make such order as may seem just for vesting the claim in the representative of such holder and extending the time for performing the work, notwithstanding any lapse, abandonment, cancellation, forfeiture or loss of rights under any provision of this Act. R.S.O. 1937, c. 47, s. 89; 1939, c. 27, s. 12.

INSPECTION OF CLAIMS

92.—(1) The Judge or the recorder may inspect or order an inspection of, and an inspector or other officer appointed by the Minister may inspect a mining claim at any time with or without notice to the holder for the purpose of ascertaining whether the provisions of this Act have been complied with, but after the granting of the certificate of record no such inspection shall, except by order of the Judge, be made for the purpose of ascertaining whether the claim has been staked out in the prescribed manner.

Inspection by Judge, recorder or inspector.

(2) Unless notice of the inspection has been given to the holder of the claim at least seven clear days prior thereto, either personally or by registered letter addressed to him at his address appearing on record in the recorder's books he may apply to the Judge or to the recorder for a reinspection and the same shall be granted if it appears that the holder of the claim has been prejudiced by the want of notice.

Application by holder for reinspection.

(3) The Judge or recorder may in any dispute, appeal or other proceeding before him make or order with or without notice, a view or inspection of any mining claim or of any lands or other property. R.S.O. 1937, c. 47, s. 90.

View or inspection in disputes, appeals, etc.

93.—(1) A report of each inspection, except when made merely for the purpose of a dispute, appeal or other proceeding, shall be made in writing by the inspecting officer and shall be filed in the office of the recorder who shall forthwith enter upon the record of the claim a note stating the effect of the report and the date of the entry.

Filing and entry of report of inspection.

(2) If the recorder deems that upon the report the claim should be cancelled he shall mark the record of the claim "Cancelled" and affix his signature or initials and shall by registered letter mailed not later than the next day notify the holder of the claim and the disputant and other interested parties, if any, of the receipt and effect of the report, and where the claim is cancelled in consequence of the report the notice shall so state.

Cancelling claim upon report.

(3) An appeal from the cancellation of the claim or from the entry by the recorder in his record book of the allowance

Appeal from cancellation or allowance to the Judge.

of the discovery may be taken to the Judge by the holder of the claim or by the disputant or other interested party, within the time and in the manner provided by section 129.

Effect of
cancellation.

(4) Upon the cancellation of a claim under this section the recorder shall forthwith post up in his office a notice of the cancellation, and the land or mining rights comprised in such claim shall thereupon, unless withdrawn from prospecting and staking out, be again open to prospecting and staking out, but such staking out shall be subject to the result of any appeal by a licensee whose claim has been cancelled. R.S.O. 1937, c. 47, s. 91.

Right of
holder to
copy of
report.

94. The holder of a mining claim or the disputant or other person interested shall be entitled on payment of the prescribed fee to receive from the recorder a certified copy of any report of inspection of the claim filed with him. R.S.O. 1937, c. 47, s. 92.

SURFACE RIGHTS COMPENSATION

Right of
owner of
surface
rights to
compensa-
tion.

95.—(1) Where the surface rights of land have been granted, sold, leased or located with reservation of mines, minerals or mining rights to the Crown, or where land is occupied by a person who has made improvements thereon which in the opinion of the Minister entitle him to compensation, a licensee who prospects for mineral, or stakes out a mining claim or an area of land for a boring permit, or carries on mining operations upon such land shall compensate the owner, lessee, locatee or occupant, for all injury or damage which is or may be caused to the surface rights by such prospecting, staking out or operations, and in default of agreement the amount and the manner, and time of payment of compensation shall be determined by the Judge upon application to him after notice to the persons interested, and, subject where the amount awarded exceeds \$1,000 to appeal to the Court of Appeal, his order shall be final and may be enforced as provided in section 128.

Prohibit-
ing work
pending
settlement.

(2) The Judge may order the giving of security for payment of the compensation and may prohibit, pending the determination of the proceeding or until the compensation is paid or secured, further prospecting, staking out or working by such licensee or any person claiming under him.

Other
licensees not
to prospect,
etc., pending
proceedings.

(3) Where an order is made prohibiting the prospecting, staking out or working of a mining claim under subsection 2, no other licensee shall have the right to prospect or stake out a mining claim to the prejudice of the prohibited licensee while the proceeding is pending.

(4) The compensation shall be a special lien upon any mining claim or other right or interest acquired by the licensee or any person claiming under him in the land so prospected, staked out or worked, and no further prospecting, staking out or working, except by leave of the Judge, shall be done by the licensee or any person claiming under him after the time fixed for the payment or securing of the compensation unless such compensation has been paid or secured as directed. R.S.O. 1937, c. 47, s. 93.

Lien for compensation.

96.—(1) The Judge or the recorder may reduce the area of any mining claim staked out where the surface rights have been granted, sold, leased or located, if in his opinion an area less than the prescribed area is sufficient for working the mines and minerals therein. R.S.O. 1937, c. 47, s. 94.

Reduction in area of claim where surface rights have been sold.

(2) The Judge or the recorder may exclude from any mining claim such portion of the surface rights as may be necessary for the occupation and utilization of buildings or improvements erected or made thereon prior to the time such mining claim was staked out. 1944, c. 37, s. 4.

Exclusion of portion of surface rights.

ISSUE OF PATENT FOR MINING CLAIM

97.—(1) Upon compliance with the requirements of this Act and upon payment of the purchase price as provided in section 98, or rental fixed by section 47 or by regulation of the Lieutenant-Governor in Council, the holder of a mining claim shall be entitled to a patent or lease, as the case may be, for the claim. R.S.O. 1937, c. 47, s. 95 (1); 1939, c. 27, s. 13.

Right to patent of claim.

(2) The application and payment for a patent or lease shall be made to the recorder within one year from the date upon which all work on a mining claim is required to be performed and such application shall be accompanied by a certificate of record as provided in subsection 1 of section 63 and a certificate of the complete performance of working conditions as provided in subsection 4 of section 80. 1948, c. 56, s. 11.

Application for patent.

98.—(1) The price per acre of Crown lands patented as mining claims shall be \$3 in surveyed territory and \$2.50 in unsurveyed territory, and the price per acre for mining rights so patented shall be one-half the price payable for Crown lands. R.S.O. 1937, c. 47, s. 96 (1); 1939, (2nd. Sess.), c. 5, s. 3.

Price to be paid for patent.

(2) Where the area of the mining claim exceeds by more than five acres the prescribed area as defined in sections 50 and 51 and such claim is not reduced in size under section

Price to be paid where area exceeds prescribed area.

107, the price per acre of such area in excess of the area so prescribed shall be twice the price provided for in subsection 1 and there shall be performed at least five days work per acre for such excess area within such time as may be prescribed by the Minister, provided that where there is a group of contiguous claims held by the same licensee, the average area of which does not exceed forty-five acres, the Minister may direct that this subsection shall not apply. R.S.O. 1937, c. 47, s. 96 (2); 1939, c. 27, s. 14.

Purchase price.

(3) Where it is deemed necessary by the Minister under section 106 that a mining claim in surveyed territory shall be surveyed, the purchase price of the claim shall be at the rate of \$2.50 per acre. R.S.O. 1937, c. 47, s. 96 (3).

Reservation for roads in patents.

99. In all patents for mining claims within the districts of Algoma, Cochrane, Kenora, Kenora (Patricia Portion), Thunder Bay, Rainy River, Manitoulin, Sudbury and Timiskaming, and that part of the district of Nipissing which lies north of the French River, Lake Nipissing and the River Mattawan, excepting where road allowances have already been provided in a survey made or authorized by the Crown, there shall be a reservation for roads of five per cent of the quantity of land granted and the Crown or its officers may lay out roads on such mining claims where deemed proper. R.S.O. 1937, c. 47, s. 98; 1939, c. 27, s. 15.

Form of patent.

100. Every patent for Crown lands or mining rights by which it is intended to vest in the patentee the mines and minerals therein or any part thereof or any rights in connection therewith, shall state that it is issued in pursuance of this Act, or of the former Act under which it is issued. R.S.O. 1937, c. 47, s. 99.

Patents issued under this Act to vest minerals.

101. Every patent of Crown lands which purports to be issued in pursuance of this Act shall unless otherwise expressly stated vest in the patentee for the estate thereby granted all title of the Crown in such land and all mines and minerals therein. R.S.O. 1937, c. 47, s. 100.

Condition of patent, ores to be treated in Canada.

102.—(1) All lands, claims, or mining rights leased, patented, or otherwise disposed of under this Act on or after the 12th day of April, 1917, shall be subject to the condition that all ores or minerals raised or removed therefrom shall be treated and refined within Canada, so as to yield refined metal or other product suitable for direct use in the arts without further treatment, in default whereof the Lieutenant-Governor in Council may declare the lease, patent or other form of title of such lands, claims or mining rights to be null and void,

and the Order in Council so declaring shall be registered in the office of the local master of titles or registry office as the case may be, whereupon such lands, claims or mining rights shall revert to and become vested in His Majesty, His Heirs and Successors, freed and discharged of any interest or claim of any other person.

(2) The Lieutenant-Governor in Council is hereby authorized to exempt any lands, claims or mining rights from the operation of this section for such period of time as to him may seem proper. Exemptions.

(3) This section shall not apply to iron ore, or to the lands, claims or mining rights from which iron ore is mined or taken. Section not to apply in certain cases.
R.S.O. 1937, c. 47, s. 101.

103.—(1) Every patent of Crown lands sold or granted as mining lands shall contain a reservation of all pine trees and such pine trees shall continue to be the property of the Crown, and any person holding a licence from the Crown to cut timber on such land may at all times during the continuance of the licence enter upon the land and cut and remove such trees, and may make all necessary roads for that purpose; provided that the patentee may cut and use such trees as may be necessary for the purpose of building, fencing and fuel on the land so patented, or for any other purpose necessary for the working of the mines therein, and may also cut and dispose of all trees required to be removed in clearing such part of the land as may be necessary for mining purposes, but subject as regards pine trees to the payment of the value thereof to the Crown or to the timber licensee or other person authorized to cut such pine trees, as the case may be; provided, however, that where such land is not under timber licence or in a provincial forest, the owner thereof may without payment of Crown dues cut thereon and use for mining purposes thereon or on any adjoining lands owned by him any trees of the variety *Pinus Banksiana*, commonly known as “jackpine”; provided further that in any mining claim staked out and recorded on or after the 26th day of March, 1918, all trees or timber of whatever kind growing or being thereon shall be reserved to the Crown, but where such trees or timber are not covered by a timber licence or permit to cut the same, the holder or owner of the claim may, on application, be granted permission to cut and use such trees or timber as he may require for mining and fuel purposes, either without payment or on such terms and conditions as the Minister of Lands and Forests may impose. Reservation of pine timber, rights of timber licensees.

(2) Any dispute between the patentee or those claiming under him and the timber licensee or other person interested Determination of disputes.

with regard to the quantity or value of the pine timber so cut or disposed or otherwise regarding the trees cut shall be determined by the Minister of Lands and Forests, whose decision shall be final.

Patentee
of mining
rights not to
cut timber.

(3) This section shall not confer upon the patentee of mining rights only any right to cut timber upon the land described in the patent. R.S.O. 1937, c. 47, s. 102.

Cancellation
of erroneous
patents.

104. Where letters patent, leases, licences or other instruments of title have been issued to or in the name of the wrong person through mistake, or contain any clerical error or misnomer, or a wrong description of the land intended to be granted, the Deputy Minister, if there is no adverse claim and whether or not the land has been registered under *The Land Titles Act* or *The Registry Act*, may direct the defective instrument to be cancelled and a correct one to be issued in its stead and the corrected instrument shall relate back to the date of the one so cancelled and shall have the same effect as if issued on the date of such cancelled instrument. 1948, c. 56, s. 12.

Rev. Stat.,
cc. 197, 336.

SURVEY OF CLAIM BEFORE ISSUE OF PATENT

Survey
of claim in
unsurveyed
territory
before
patent
issued.
Regulations
for
surveying.

105.—(1) Before a patent of a mining claim in unsurveyed territory is issued the claim shall be surveyed by an Ontario land surveyor at the expense of the applicant.

(2) The Lieutenant-Governor in Council may make regulations prescribing the method and procedure to be followed in surveying mining claims. R.S.O. 1937, c. 47, s. 103.

Minister
may direct
survey of
claim in
surveyed
territory.

106. Where upon an application for a patent of a mining claim in surveyed territory the Minister is of opinion that a survey is necessary he may direct that a survey thereof shall be made at the expense of the applicant, and such survey unless otherwise ordered shall comply with the same requirements as a survey of a mining claim in unsurveyed territory. R.S.O. 1937, c. 47, s. 104.

Reduction
of area of
claim found
to exceed
prescribed
acreage.

107.—(1) If it is found upon a survey required or authorized by this Act that the area of a mining claim exceeds the prescribed acreage the Minister may reduce the area to the prescribed acreage or thereabouts in any way he may see fit.

When
recorded
claim
includes
lands
accidentally
omitted and
disposition
of gores and
fractions.

(2) Where two or more mining claims in unsurveyed territory are contiguous and constitute a group recorded in the name of one licensee, and it was the manifest intention of the applicant or applicants, as shown by the sketch or sketches accompanying his or their application or applications for the

same, to include as part of such mining claims all lands and lands under water within the limits of such group, and a survey shows that certain of the lands or lands under water are not so included, such lands or lands under water shall nevertheless be deemed to be part and parcel of the claim or claims in which it was the manifest intention that they should be included, and where two or more mining claims are contiguous and are recorded in the name or names of more than one licensee, any fraction or gore shown or created by a survey shall not be open for staking out until the Minister so directs, and the Minister on the report of the Surveyor-General, may award such fraction or gore, or part thereof, to the recorded holder or holders of either or both of the contiguous claims, or may sell, lease, or otherwise dispose of the same as he may see fit without requiring such fraction or gore to be staked out as a mining claim. R.S.O. 1937, c. 47, s. 105.

PART III

PLACER MINING

108. A licensee, who makes a discovery of a natural ^{Placer mining} stratum, bed or deposit of sand, earth, clay, gravel or cement ^{claims.} carrying gold, or platinum, or precious stones, which is probably of such size and character as to be likely to be workable at a profit may stake out and record a mining claim to be called a Placer Mining Claim, thereon, and the provisions of this Act, as to the staking out and recording of a mining claim upon the discovery of valuable mineral in place thereon, shall as far as practicable apply to the staking out of a placer mining claim as if the words "a natural stratum, bed or deposit of sand, earth, clay, gravel, or cement, carrying gold or platinum, or precious stones, which is probably of such a size and character as to be likely to be workable at a profit", were used instead of "valuable mineral in place", and the other provisions of this Act as to mining claims shall also, as far as practicable, apply to a placer mining claim, and "mining claim" wherever used in this Act shall, unless repugnant to the context, be read as including placer mining claim. R.S.O. 1937, c. 47, s. 106.

PART IV

PETROLEUM, GAS, COAL AND SALT

109.—(1) A licensee may obtain from the Minister a boring ^{Boring permits to} permit in the prescribed form, granting him the exclusive right ^{explore for} for a period of one year to prospect for petroleum, natural ^{oil, gas, coal} or salt, ^{or salt,}

gas, coal or salt upon an area of land open for prospecting and staking out in those portions of Ontario lying north and west of the River Mattawan, Lake Nipissing, and the French River,

staking out;

(a) by staking out such area by planting or erecting a post at each corner thereof in the manner and with the numbering provided by section 55, and writing or placing upon each post,

(i) the words "Boring Permit Applied For",

(ii) his name and the letter and number of his licence,

(iii) the date of the staking out, and

(iv) a statement of the area to be included in the application;

application to recorder;

(b) by furnishing the recorder with an application in duplicate verified by affidavit in the prescribed form,

(i) where the area staked out is situated in any part of the territorial district of Kenora (Patricia Portion), not included in the Patricia, Red Lake or Kenora mining division, or in any territorial district not included in a mining division, within sixty days from the date of staking out, and

(ii) in all other cases within thirty days from the date of staking out;

forwarding plans to Minister;

(c) by forwarding to the Minister not more than ninety days thereafter a plan or diagram showing as nearly as possible the situation of the lands, and a written description of the lands, including, if the area is in surveyed territory, the number of the lots and concessions or sections or quarter sections or other subdivisions, together with a fee of \$100; and

compensation to owner of surface rights.

(d) by proving to the satisfaction of the Minister that he has paid or secured to the owner of the surface rights, if any, the compensation agreed upon or determined as provided in section 95 for any injury or damage which is or may be caused to the surface rights, or, in default of agreement, that he has paid or secured such compensation, as determined in the manner provided by section 95. R.S.O. 1937, c. 47, s. 107 (1); 1947, c. 66, s. 15; 1950, c. 44, s. 5.

Posting applications.

(2) One duplicate of the application shall be forthwith posted up by the recorder in his office and the other forwarded by him to the Minister. R.S.O. 1937, c. 47, s. 107 (2).

(3) The area of land included in a boring permit, if in unsurveyed territory, shall be rectangular in form and shall not exceed 640 acres in extent, the boundary lines thereof being due north and south and due east and west astronomically, and if in surveyed territory need not be rectangular in form, but may consist of any number of contiguous lots, quarter sections or subdivisions of a section not containing in all more than 640 acres.

Form of
area to be
included in
permit.

(4) The holder of a boring permit shall enter upon the area described therein within two months from the granting of the permit, and during the term of the permit shall expend thereon in actual boring, sinking, driving or otherwise searching for petroleum, natural gas, coal or salt a sum amounting to not less than \$2 per acre.

Working
conditions.

(5) Upon proof being furnished to the Minister that such expenditure has been made and that all other terms and conditions of the permit have been complied with, the Minister, at the expiration of the boring permit, may grant one renewal of the permit for one year upon payment of a fee of \$100, and the renewal shall be subject to the like conditions as to expenditure and otherwise as the original permit.

Renewal of
permit.

(6) The holder of a boring permit may, with the consent of the Minister, endorsed thereon, transfer, in the prescribed form, all his rights in the permit or the land included therein, and upon the consent being given the licensee to whom the permit is transferred shall thereupon be entitled to the unexpired term of the permit, with any right of renewal thereof. R.S.O. 1937, c. 47, s. 107 (4-7).

Transfer of
permit.

110.—(1) Upon the holder of a boring permit proving to the satisfaction of the Minister that he has discovered petroleum, natural gas, coal or salt or any one or more of such substances in commercial quantities upon the land included therein, the Minister may direct the issue to the holder of the permit of a lease of the land or any portion of it for a term of ten years at an annual rental of \$1 per acre, payable in advance and subject to the expenditure of not less than \$2 per acre per annum, in obtaining petroleum, natural gas, coal or salt, or any one or more of such substances therefrom, or in actual *bona fide* operations or works undertaken or made for the purpose of obtaining the same, and the lessee shall have the right of renewal of such lease at the expiration of the first term of ten years for a further term of ten years at the same rental, and at the expiration of the second term for a term of twenty years at such renewal rental as may then be agreed upon or provided by statute or regulations.

Lease may
issue on
discovery.

Regulations
as to leases.

(2) Every such lease shall contain such other conditions, stipulations and provisoes as the Lieutenant-Governor in Council may prescribe, and shall be forfeited and void if the rental payable thereunder is not paid when due, or upon failure to expend the money required by subsection 1 to be laid out or upon failure to comply with any of the terms and conditions of the lease; provided that relief from forfeiture for failure to pay rent when due may be had by the payment of all arrears within ninety days after the rent became payable.

Rights
of lessee.

(3) The right conferred by any such lease upon the lessee shall be to enter upon the land described, and to dig, bore, sink, drive or otherwise search for and obtain, raise and remove petroleum, natural gas, coal and salt, or any one or more of such substances, and all other valuable minerals shall be reserved to the Crown, and any holder of a miner's licence may at all times go upon the land and prospect the land and stake out a mining claim thereon, but subject to compensating the lessee for any injury or damage to his interest in the land at the time and in the manner provided in section 95, and may obtain a patent therefor, but such patent shall reserve the petroleum, natural gas, coal and salt, in, on or under such land.

Survey
required in
unsurveyed
territory.

(4) No such lease shall issue for land in unsurveyed territory until a plan in triplicate made by an Ontario land surveyor, field notes and description, shall be filed in the Department, showing a survey in conformity with this Act, and to the satisfaction of the Minister.

Timber to
be reserved.

(5) The holder of a boring permit or of a lease for petroleum, natural gas, coal or salt, shall not be entitled to the timber upon the land included in such permit or lease but if the same are not covered by timber licence and have not been located, sold or patented under *The Public Lands Act*, may, with the permission of the Minister of Lands and Forests, and upon payment of such rates as may be fixed, cut and use such timber or trees as may be necessary for boring and working such land. R.S.O. 1937, c. 47, s. 108.

Rev. Stat.,
c. 309.

Boring
permitted
north of
trans-
continental
railway.

111. Notwithstanding anything in sections 109 and 110, the Minister, with the approval of the Lieutenant-Governor in Council, may make such regulations as he shall think fit respecting the issue of boring permits authorizing the holders thereof to prospect for petroleum, natural gas, coal or salt, in that part of Ontario lying north of the transcontinental railway, and for the issue of leases upon such terms as the Minister may see fit. R.S.O. 1937, c. 47, s. 109.

PART V

DREDGING LEASES

112.—(1) The Lieutenant-Governor in Council may make regulations respecting the issue of leases authorizing the holders thereof to dredge or work in any river, stream or lake, or on lands not covered by water, for the purpose of recovering therefrom alluvial gold, platinum, precious stones, or other valuable mineral not in place. R.S.O. 1937, c. 47, s. 110 (1); 1946, c. 55, s. 4. Regulations as to dredging leases.

(2) Every such lease shall provide for the payment in advance of an annual rental of not less than twenty-five cents per acre, and shall not be for a greater term than ten years, renewable at the expiration thereof for a further term of not more than ten years, and every such lease or renewal thereof shall contain such conditions and provisions as the Lieutenant-Governor in Council may see fit. R.S.O. 1937, c. 47, s. 110 (2). Provisions to be included in dredging leases.

PART VI

MINING PARTNERSHIPS

113. All rights, liabilities and conditions pertaining to mining partnerships formed before the 2nd day of April, 1931, under this Act or any Act for which this Act was substituted, shall remain in full force and virtue until the expiry thereof as provided in the certificate of mining partnership. R.S.O. 1937, c. 47, s. 111. Rights, liabilities, etc., of partnership remain in force.

PART VII

PROCEEDINGS IN MINING COURT

114.—(1) There shall continue to be a court to be known as the Mining Court of Ontario. Court to continue.

(2) The Mining Court shall be a court of record and shall have a seal with which all process shall be sealed or stamped. R.S.O. 1937, c. 47, s. 112. Court of record, seal.

115.—(1) The Mining Court shall be presided over by a judge to be appointed as provided by *The British North America Act, 1867*, who shall be known as the Judge of the Mining Court. Judge.

(2) The Judge shall hold office during good behaviour until he attains the age of seventy-five years and shall not be re- Tenure of office.

moved from office except upon an address of the Assembly to the Lieutenant-Governor. R.S.O. 1937, c. 47, s. 113.

Registrar.

116. There shall be a registrar of the Mining Court who shall be appointed by the Lieutenant-Governor in Council. R.S.O. 1937, c. 47, s. 114.

Jurisdiction.

117.—(1) Except as provided by section 191, no action concerning mining lands shall lie nor shall any other proceeding be taken in any other court as to any matter or thing arising under this Act whether before or after issue of the patent or involving the interpretation of the provisions thereof, or as to rights acquired or alleged to have been acquired thereunder, or as to any matter or thing involving any right or claim under this Act, and every such matter and every claim, question and dispute arising as aforesaid shall be brought and determined in the Mining Court, and in the exercise of the powers conferred by this section the Judge may make such order and give such directions as he may deem necessary to make effectual and enforce compliance with his decision.

Powers of Judge.

(2) The Judge shall have and may exercise in the Mining Court the same powers as a judge of a superior court sitting in a civil case.

Style of proceedings.

(3) Every notice and every document in any matter, application or appeal coming before the Judge shall be styled "in the Mining Court of Ontario". R.S.O. 1937, c. 47, s. 115.

Witnesses and enforcing attendance.

118. A subpoena may issue out of the Mining Court or out of the Supreme Court or county or district court for the purpose of compelling the attendance of witnesses and the production of documents and things in any proceeding before the Mining Court, or before the Judge of the Mining Court, and the Judge shall also have, with respect to matters which may be dealt with by him under this Act, all the powers of summoning and enforcing the attendance of witnesses and compelling them to give evidence and produce documents and things which the judge of a superior court or of a county or district court has in civil cases. R.S.O. 1937, c. 47, s. 116.

Exclusion of questions involving validity of patents.

119. The Mining Court shall not have power or authority to declare forfeited and void or to cancel or annul any Crown patent issued for lands, mining lands, mining claims or mining rights, but every action or other proceeding to declare forfeited or void or to cancel or annul any such Crown patent may be brought or taken in the Supreme Court and shall be heard and determined in the same manner as if *The Mining Court Act, 1924*, had not been passed. R.S.O. 1937, c. 47, s. 120.

120. A party to any proceeding under this Act brought in the Mining Court and involving any right, privilege or interest in, or in connection with any patented lands, mining lands, mining claims or mining rights, may at any stage of such proceeding apply to the Supreme Court for an order transferring the proceeding to the Supreme Court. R.S.O. 1937, c. 47, s. 118.

Transfer of proceedings to Supreme Court.

121. In case of the illness or absence of the Judge the Lieutenant-Governor in Council may appoint some other person, being a barrister of at least 10 years standing at the Bar of Ontario, to act in place of the Judge and the person so appointed shall in that case have and exercise all the powers of the Judge except those which he derives exclusively from his appointment under any commission issued to him by the Governor-General of Canada. R.S.O. 1937, c. 47, s. 119; 1939, c. 27, s. 16.

Illness or absence of Judge.

122. Where in the opinion of the court in which an action is brought, the proceedings may be more conveniently dealt with or disposed of by the Mining Court, the court may, upon the application of any party or otherwise, and at any stage of the proceedings, refer the action or any question therein to the Judge as an official referee, on such terms as to the court may seem just, and the Judge of the Mining Court shall thereafter give directions for the continuance of the proceedings before him, and, subject to the order of reference, all costs shall be in his discretion. R.S.O. 1937, c. 47, s. 120.

Referring actions, etc., to Judge.

123. Where a proceeding is brought in any court which should have been taken before the Mining Court, the court or judge may upon the application of any party or otherwise, and at any stage of the proceeding transfer it to the Mining Court, except as provided by this Act. R.S.O. 1937, c. 47, s. 121.

Transfer of proceedings to Mining Court.

124. The Lieutenant-Governor in Council may make rules, Rules.

- (a) prescribing the practice and procedure in the Mining Court;
- (b) respecting the officers of the Mining Court;
- (c) respecting the sittings of the Mining Court and the places at which such sittings shall be held;
- (d) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1937, c. 47, s. 122.

Preventing
trespasses
on public
lands.
Rev. Stat.,
c. 309.

125. The Judge shall also have all the powers which by *The Public Lands Act* are conferred on commissioners appointed under that Act. R.S.O. 1937, c. 47, s. 123.

Powers of
recorder, to
determine
disputes.

126.—(1) Subject to appeal as hereinafter provided, a recorder, as to unpatented mining claims situate in a mining division, shall have power to hear and determine disputes arising between licensees.

When
recorder to
decide
matter in
first
instance.

(2) Any question arising prior to the issue of a certificate of record of a mining claim as to whether the provisions of this Act regarding a mining claim, have been complied with, unless the Judge otherwise orders or unless the recorder with the consent of the Judge transfers such question to the Judge for his decision, shall in the first instance be decided by the recorder.

Note of
decision to
be made by
recorder.

(3) The recorder shall forthwith enter in the books of his office a full note of every decision made by him, and shall notify the persons affected thereby of such decision by registered letter mailed not later than the next day after the entry of such note.

Certificate
of decision.

(4) Every person affected by the decision shall be entitled upon payment of the prescribed fee to receive from the recorder a certificate thereof which shall contain the date of the entry of such decision in the books of the recorder.

Finality of
decision.

(5) The decision of the recorder shall be final and binding unless appealed from as in this Act provided. R.S.O. 1937, c. 47, s. 124.

Recorder
may direct
proceedings
before him.

127.—(1) The recorder may give directions for the conduct and carrying on of the proceedings before him, and in so doing he shall adopt the cheapest and most simple methods and machinery for determining the questions raised before him.

Where no
direction.

(2) Where no such directions are given, the provisions relating to procedure before the Judge shall apply where applicable.

Costs.

(3) The recorder shall not have power to award costs, but may in his discretion allow the fees and conduct money of witnesses and may direct by whom the same shall be paid. R.S.O. 1937, c. 47, s. 125.

Making
order of
Mining
Court or
recorder a
judgment of
the court.

128. A duplicate of any order made by the Mining Court or by a recorder may be filed in the office of the Registrar of the Supreme Court or in the office of any local registrar of the Supreme Court or in the office of the clerk of the county or district court of the county or district in which the land

lies, and upon being so filed shall become an order of the court in which it is filed and shall be enforceable as an order of such court, but the court or a judge thereof may stay proceedings thereon if an appeal is brought from the order. R.S.O. 1937, c. 47, s. 126.

129.—(1) A person affected by the decision of, or by any act or thing, whether ministerial or judicial, done, or refused or neglected to be done by the recorder, may appeal to the Judge who shall decide the matter and make such order in the premises as he may deem just. Appeal from recorder to Judge.

(2) Upon an appeal from the decision of the recorder the Mining Court may require or admit new or additional evidence or may retry the matter. Admission of further evidence on appeal.

(3) The appeal shall be by notice in writing in the prescribed form, filed in the office of the recorder, and served upon all parties adversely interested within fifteen days from the entry of the decision on the books of the recorder, or within such further period not exceeding fifteen days, as the Court may allow; provided that if notice of appeal has been filed with the recorder within such time, and the Mining Court is satisfied that it is a proper case for appeal and that after reasonable effort any of the parties entitled to notice could not be served within such time, the Mining Court may extend the time for appealing and make such order for substitutional or other service as may be deemed just; provided also that where a person affected has not been notified as provided in sections 93 and 126, and appears to have suffered substantial injustice and has not been guilty of undue delay, the Mining Court may allow such person to appeal. Mode of appealing.

(4) The notice of appeal shall contain or have endorsed upon it an address for service at some place not more than five miles distant from the recorder's office, and any notice or document relating to the appeal shall be sufficiently served upon the appellant if left with a grown-up person at such place, or if no such person can there be found then if sent by registered post addressed to the appellant at the post office at or nearest to such place. Address for service to be on notice of appeal.

(5) If no address for service is given as provided in subsection 4, any such notice or document may be served upon the appellant by posting up the same in the recorder's office. R.S.O. 1937, c. 47, s. 127. Mode of service when no address given.

130.—(1) An appeal shall lie from any decision of the Mining Court in respect to any ministerial duty of the recorder to the Minister only, and the decision of the Minister shall be final and shall not be subject to appeal. Appeal to Minister as to ministerial acts of recorder.

Mode of
appealing to
Minister.

(2) The appeal to the Minister shall be by notice in writing filed with the Department and served upon every adverse party within fifteen days after the date of the decision of the Mining Court, or within such further time as may be allowed by the Minister. R.S.O. 1937, c. 47, s. 128.

Obtaining
appoint-
ment.

131.—(1) An appointment shall be obtained from the Judge for the hearing of an appeal or of a dispute mentioned in section 62 or of any claim, question or dispute cognizable by the court.

Material.

(2) In any matter or proceeding other than an appeal the court may, if a certificate of record has been issued, require that the applicant shall satisfy him that there is reasonable ground for the application or may in any such case, or in any case where leave to take the proceeding is necessary, give the appointment or leave only upon such terms as to security for costs or otherwise as may seem just.

Application
for appoint-
ment.

(3) The appointment may be obtained upon a verbal or written application.

Service of
appoint-
ment.

(4) A copy of the appointment shall be served upon all parties concerned, and except in the case of an appeal or dispute under section 62, a notice, in the prescribed form, stating shortly the nature and particulars of the right, question or dispute, shall also be served. R.S.O. 1937, c. 47, s. 129.

Judge to
give all
necessary
directions.

132.—(1) The Judge may give directions for having any matter or proceeding heard and decided without unnecessary formality, may order the filing, serving of statements, particulars, objections or answers, the production of documents and things, and the making of amendments, may give such other directions for the procedure and hearing as he may deem proper, and may make any appointment, notice or other proceeding returnable forthwith or at such time as he may deem proper, and may order or allow such substituted or other service as in the circumstances may seem proper.

Place of
hearing.

(2) In appointing the place of hearing, the Judge shall select the place that he may deem most convenient for the parties within the county or district or one of the counties or districts in which the lands or mining rights affected are situate, unless it appears to him desirable that the hearing should be in some other county or district.

Hearing to
be proceeded
with
promptly.

(3) The hearing shall be proceeded with as promptly as possible, having regard to the interests of the parties concerned.

Taking
evidence.

(4) The Judge may take or order the evidence of any witness to be taken at any place within or without Ontario.

(5) The Judge may hear and dispose of any application not involving the final determination of the matter or proceeding at any place he may deem convenient, and his decision upon any such application shall be final and shall not be subject to appeal. R.S.O. 1937, c. 47, s. 130.

133. The Judge may obtain the assistance of engineers, surveyors, or other scientific persons, who may under his order view and examine the property in question, and in giving his decision he may give such weight to their opinion or report as he may deem proper. R.S.O. 1937, c. 47, s. 131.

134.—(1) The Judge, in addition to hearing the evidence adduced by the parties, may require and receive such other evidence as he may deem proper, and may view and examine the property in question and give his decision upon such evidence or view and examination, or may appoint a person to make an inspection of the property, and may receive as evidence and act upon the report of the person so appointed.

(2) Where the Judge proceeds partly on a view or on any special knowledge or skill possessed by himself, he shall put in writing a statement of the same sufficiently full to enable a judgment to be formed of the weight which should be given thereto.

(3) When the parties consent in writing, the Judge may proceed wholly upon a view, and in such case his decision shall be final and shall not be subject to appeal. R.S.O. 1937, c. 47, s. 132.

135. The Judge shall give his decision upon the real merits and substantial justice of the case. R.S.O. 1937, c. 47, s. 133.

136. Where the Judge deems the matter or proceeding vexatious, or where it is brought by a person residing out of Ontario, he may order that such security for costs as he may deem proper be given, and that in default of such security being given within the time limited or in default of speedy prosecution the matter or proceeding be dismissed. R.S.O. 1937, c. 47, s. 134.

137. Where the hearing is to take place at a place where a court house is situate, the Judge shall have the right to use the court room and where the hearing is to take place in a municipality in which there is a hall belonging to the municipality, but no court room, he shall have the right to use such hall. R.S.O. 1937, c. 47, s. 135.

Sheriffs,
etc., to assist
Judge.

138. Sheriffs, deputy sheriffs, constables and other peace officers shall aid, assist and obey the Judge in the exercise of the powers conferred on him by this Act, whenever required so to do, and shall upon the certificate of the Judge be paid by the treasurer of the county or district the same fees as for similar services in carrying out the orders of a judge of the Supreme Court. R.S.O. 1937, c. 47, s. 136.

When notes
need not be
extended.

139. The evidence taken before the Judge need not be filed, or written out at length by the shorthand writer unless required by the Judge or by a party to the proceedings, and copies shall be furnished upon the same terms as in cases in the Supreme Court. R.S.O. 1937, c. 47, s. 137.

Costs.

140. The Judge may in his discretion award costs to any party, and may direct that such costs be taxed by the clerk of the county or district court or by a local taxing officer or by one of the taxing officers at Toronto, or may order that a lump sum be paid in lieu of taxed costs. R.S.O. 1937, c. 47, s. 138.

Scale
of costs.

141.—(1) The costs and disbursements payable upon proceedings before the Judge, as to any matter in which the amount or value of the property in question does not in the opinion of the Judge exceed \$400, shall be according to the tariff of the county court, and as to any matter in which the amount or value of the property in question in his opinion exceeds \$400, shall be according to the tariff of the Supreme Court.

Judge to
decide as
to scale.

(2) The Judge shall in his order or award direct according to which tariff the costs and disbursements shall be taxed.

Counsel fees.

(3) The Judge shall have the same powers as a judge of a county court or a taxing officer of the Supreme Court with respect to counsel fees. R.S.O. 1937, c. 47, s. 139.

Witness
fees and
conduct
money.

142. The fees and conduct money to be paid to a witness before the Judge or recorder shall be according to the county court scale. R.S.O. 1937, c. 47, s. 140.

Decision to
be in form
of order or
judgment.

143.—(1) Except where inapplicable, the decision of the Mining Court shall be in the form of an order or judgment, but need not show upon its face that any proceeding or notice was had or given, or that any circumstance existed necessary to give jurisdiction to make such order or judgment.

Filing
order or
judgment.

(2) The order or judgment of the court, with the evidence, exhibits, the statement, if any, of view or of special knowledge or skill and the reasons for his decision if any are given, shall

be filed in the Department, or in the office of the recorder, as may be directed by the Judge, and the officer or person in charge of such office shall forthwith give notice in writing of the filing by registered post or otherwise to the solicitors of the parties appearing by solicitor and to parties not represented by a solicitor.

(3) Where the order or judgment is not filed with the recorder of the division in which the property affected is situate the Judge shall transmit a duplicate to such recorder. Duplicate to be transmitted to recorder.
R.S.O. 1937, c. 47, s. 141.

144.—(1) The Judge shall make in the books of his office a full note of every decision given by him. Entry of note of decision.

(2) Where a decision of the Judge finally disposes of the matter in question so far as he is concerned he shall give notice of the purport of such decision to the parties to the proceeding by registered letter addressed to them at their addresses as entered in his books. R.S.O. 1937, c. 47, s. 142. Notice of final decision to be given to parties.

145. Any party to a proceeding shall be entitled on payment of the prescribed fee to a certified copy of any order or judgment, and the copy shall show the date of the entry of the order or judgment in the books of the Judge. R.S.O. 1937, c. 47, s. 143. Parties to be entitled to certified copy of order or judgment.

146. Where not herein otherwise provided, an appeal shall lie to the Court of Appeal from every decision of the Mining Court, including an order dismissing a matter or proceeding under section 136. R.S.O. 1937, c. 47, s. 144. Appeal from Judge to Court of Appeal.

147.—(1) Except in the case provided for by section 122 and in the case of a reference under *The Arbitration Act*, the order or judgment of the Mining Court shall be final and conclusive unless where an appeal lies it is appealed from within fifteen days after the filing thereof or within such further period not exceeding fifteen days as the Judge or a judge of the Supreme Court may allow. Time for appealing. Rev. Stat., s. 20.

(2) The appeal shall be begun by filing a notice of appeal with the recorder of the division in which the property in question or a part of it is situate and paying to him the prescribed fee, and unless such filing and payment are so made, and unless the appeal is set down and a certificate of such setting down lodged with the recorder within five days after the expiration of such fifteen days or the further time allowed under subsection 1 the appeal shall be deemed to be abandoned. Notice of appeal.

Recorder to transmit proceedings to Registrar of Supreme Court.

(3) The recorder and in cases where section 22 applies, the Deputy Minister shall forthwith after the filing of the notice of appeal and the payment of the prescribed fee, transmit by registered post or by express to the office of the Registrar of the Supreme Court, Toronto, the order or judgment and all the exhibits, papers and documents filed therewith.

Order extending time for appeal to be sent to recorder.

(4) Where the time for appealing is extended the appellant shall forthwith transmit the order for the extension, or a duplicate thereof, by registered post to the recorder. R.S.O. 1937, c. 47, s. 145.

Procedure on appeals.

148. The practice and procedure, including the disposition of costs, on an appeal shall be the same as in ordinary cases under *The Judicature Act*. R.S.O. 1937, c. 47, s. 146.

Rev. Stat., c. 190.

Proceedings under Act not removable by *certiorari*, etc.

149. Save as herein provided proceedings under this Act shall not be removable into any court by *certiorari* or otherwise, and no injunction, mandamus or prohibition shall be granted or issued out of any court in respect of anything required or permitted to be done by any officer appointed under this Act. R.S.O. 1937, c. 47, s. 147.

Validity of proceedings not to be affected by informality.

150. No proceeding before the Mining Court or a recorder shall be invalidated by reason of any defect in form or substance or failure to comply with the provisions of this Act, where no substantial wrong or injustice has been thereby done or occasioned. R.S.O. 1937, c. 47, s. 148.

Power to extend time, after expiration of prescribed time.

151. Where power is conferred by this Act to extend the time for doing an act or taking a proceeding unless otherwise expressly provided, the power may be exercised as well after as before the expiration of the time allowed or prescribed for doing the act or taking the proceeding. R.S.O. 1937, c. 47, s. 149.

PART VIII

OPERATION OF MINES

Interpretation.

152.—(1) In this Part,

- (a) “authorized” means properly authorized to perform any specified duty or to do any specified act, and “qualified” means properly qualified to perform any specified duty or do any specified act;
- (b) “Chief Inspector” means Chief Inspector of Mines for Ontario, and “Inspector” means Inspector of

Mines for Ontario and includes a person designated by the Department as a "District", "Electrical", or "Mechanical" Inspector of Mines;

(c) "manager" means the person responsible for the control, management and direction of a mine or portion of a mine or works; 1948, c. 56, s. 13, *part*.

(d) "rescue station superintendent" means a person in charge of a mine rescue station. 1949, c. 59, s. 7.

(2) Subject to the requirements of this Act, and except as otherwise herein provided, responsibility for the authorization and decisions as to the qualifications of employees shall rest with the employer or his agent. 1948, c. 56, s. 13, *part*. Responsibility as to qualifications.

EMPLOYMENT IN AND ABOUT MINES

153.—(1) No male person under the age of sixteen years shall be employed in or about any mine, and no male person under the age of eighteen years shall be employed underground in any mine or at the working face of any open cut workings, pit or quarry. Employment, of children,

(2) No female person shall be employed at any mine except on surface in a technical, clerical or domestic capacity or such other capacity as requires the exercise of normal feminine skill or dexterity but does not involve strenuous physical effort. 1948, c. 56, s. 13, *part*. of females.

MINE RESCUE STATIONS

154.—(1) Mine rescue stations shall be established, equipped, operated and maintained at such places and in such manner as the Minister may direct. Establishment of mine rescue stations.

(2) The Lieutenant-Governor in Council may appoint such mine rescue officers as may be deemed advisable. Mine rescue officers.

(3) The equipment and operation of mine rescue stations shall be in charge of such mine rescue officers and it shall be the duty of such officers to teach and train mine rescue crews and supervisors in the use and maintenance of the apparatus in such manner as the Chief Inspector may direct, to maintain the apparatus in efficient and workable condition so as to be available for immediate use, and to perform such other duties as the Chief Inspector may deem necessary. Duties of mine rescue officers.

(4) The owner, agent or manager of a mine shall cause such workmen and supervisors to be trained in the use and maintenance of mine rescue equipment as the District Inspector may deem necessary. Duty of owner, agent and manager as to training of rescue crews.

Responsi-
bility in
mine rescue
operations.

(5) The mine manager shall be responsible for the supervision and direction of mine rescue crews in all mine rescue and recovery operations conducted at the mine.

Costs to be
paid out of
Consolidated
Revenue
Fund.

(6) The cost of establishing, maintaining and operating mine rescue stations shall be paid out of the Consolidated Revenue Fund.

Workmen's
Compensa-
tion Board
to reimburse
Consolidated
Revenue
Fund.

(7) The Workmen's Compensation Board shall at the end of each quarter year reimburse the Consolidated Revenue Fund from moneys assessed and levied by the Board against employers in the mining industry for the total amount certified by the Deputy Minister to have been paid out under subsection 6.

Disposal of
equipment,
etc.

(8) All moneys received from the sale or disposal of any equipment, buildings or machinery forming part of or appertaining to mine rescue stations shall be paid to the Workmen's Compensation Board and shall be placed to the credit of the class funds of the employers in the mining industry. 1949, c. 59, s. 8 (1).

HOURS OF LABOUR UNDERGROUND

Interpre-
tation.

155.—(1) In this section,

- (a) "workman" means any person employed underground in a mine who is not the owner or agent or an official of the mine;
- (b) "shift" means any body of workmen whose hours for beginning and terminating work in the mine are the same or approximately the same,

and where any question or dispute arises as to the meaning or application of clause *b* of subsection 2, or as to the meaning of "workman", "shift", or "underground", the certificate of the Inspector shall be conclusive.

Hours of
labour
under-
ground.

(2) No workman shall remain or be allowed to remain underground in any mine for more than eight hours in any consecutive twenty-four hours, which eight hours shall be reckoned from the time he arrives at his place of work in the mine until the time he leaves such place, provided that,

- (a) a Saturday shift may work longer hours for the purpose of avoiding work on Sunday or changing shift at the end of the week or giving any of the men a part holiday;
- (b) such limit shall not apply to a foreman, pumpman, cagetender, or any person engaged solely in surveying or measuring, nor shall it apply in cases of

emergency, where life or property is in imminent danger, or in any case of repair work.

(3) No person shall operate or be permitted to operate, Hours of operator of hoist. either on the surface or underground, any hoist by means of which persons or material are hoisted, lowered or handled in any shaft or winze, for more than eight hours in any consecutive twenty-four hours, except,

- (a) that in the event of one of the regular hoistmen being absent from duty through sickness or otherwise and where no competent substitute is available the remaining hoistman or hoistmen may work extra time not exceeding four hours each in any consecutive twenty-four hours;
- (b) that in the case where the work at any mine or in any shaft or winze at any mine is not carried out continuously on three shifts per day, in which case the hoistman may work such extra time as may be necessary for hoisting or lowering the workmen employed on the shift at the beginning and end of each shift;
- (c) in the cases provided for in clauses *a* and *b* of subsection 2.

(4) This section applies to all parts of Ontario without county organization, and shall apply to the remaining parts of Ontario on a day to be named by the Lieutenant-Governor by his Proclamation. 1948, c. 56, s. 13, *part.* Commencement of section.

QUALIFICATIONS OF HOISTMEN

156.—(1) No person under the age of twenty-one years and no person who has not had adequate experience on a reversing hoist shall be allowed to have charge of any hoist at a shaft or winze in which men are handled at any mine. Age limit of hoistmen.

(2) No person under the age of eighteen years shall be allowed to have charge of any hoist of any kind at a mine. Idem.

(3) No person shall operate or be permitted to operate any hoist at a shaft or winze in which men are handled at any mine, or for any other purpose designated by the Inspector, unless such person has been examined by a legally qualified medical practitioner acceptable to the employer and the medical practitioner has issued to such person on the form prescribed a hoistman's medical certificate to the effect that to the best of the practitioner's knowledge such person is not subject to any infirmity, mental or bodily (particularly with Hoistman to be holder of medical certificate.

regard to sight, hearing and heart), to such a degree as to interfere with the efficient discharge of his duties.

Expiry of
certificate.

(4) Such certificate shall lapse and be deemed to have expired at the end of one year from the date thereof.

Filing of
certificate.

(5) Such certificate shall be kept on file by the employer and made available to the Inspector at his request.

Posting
record of
certificates.

(6) A record of all hoistmen's medical certificates pertaining to hoistmen operating in any one hoistroom shall be kept posted therein, showing the names of the hoistmen and the date of the last certificate issued to each. 1948, c. 56, s. 13, *part*.

MEDICAL EXAMINATIONS

Interpreta-
tion.

157.—(1) In this section,

- (a) "applicant" means a person who is not the holder of a certificate in good standing, issued under the authority of subsections 4 to 10, who is seeking employment in a dust exposure occupation;
- (b) "certificate" means initial certificate, extended certificate, endorsed certificate, miner's certificate or renewed certificate;
- (c) "dust exposure occupation" means,
 - (i) employment underground in a mine,
 - (ii) employment at the surface of a mine in ore or rock crushing operations where the ore or rock is not crushed in water or a chemical solution which constantly keeps it in a moistened or wet condition,
 - (iii) employment at other locations, as designated by the Chief Inspector, at the surface of a mine or in a pit or quarry;
- (d) "endorsed certificate" means an initial certificate or extended certificate which has been endorsed under subclause ii of clause *b* of subsection 4.
- (e) "extended certificate" means an initial certificate which has been extended under subclause i of clause *b* of subsection 4;
- (f) "initial certificate" means a certificate issued to an applicant under clause *a* of subsection 4;
- (g) "medical officer" means a medical officer appointed under *The Workmen's Compensation Act* to carry out

the provisions of this Act with regard to the examination of employees or applicants for employment;

- (h) "miner's certificate" means a certificate issued under clause *a* of subsection 5;
- (i) "renewed certificate" means a miner's certificate which has been renewed under clause *b* of subsection 5.

(2) No person shall be employed in a dust exposure occupation unless he is the holder of a certificate in good standing.

Employment
in dust
exposure
occupation.

(3) (a) Subject to clause *b* every certificate shall remain in force for not more than twelve months, provided that a medical officer may, at any time, recall the holder of any certificate for examination within the scope of the existing certificate and may extend, endorse, renew or cancel such certificate in accordance with his finding upon such examination.

Term of
certificate.

(b) In the parts of Ontario where the examinations under subsections 4 and 5 are conducted by a travelling medical officer no certificate shall be deemed to have expired because of the failure of the medical officer to conduct any examination prior to the date of expiration of any certificate, and the holder of any certificate which would otherwise have expired shall present himself before a medical officer for re-examination at the first opportunity available after the date upon which his certificate would have so expired.

Examination
by travelling
medical
officer.

(c) Where a certificate of a person employed in the mining industry has expired because of the failure of the holder thereof to present himself to a medical officer for examination, a medical officer may extend, endorse or renew such certificate or issue a miner's certificate, as the circumstances of the case may require, if he is satisfied that such failure was caused by the inability of such holder to so present himself because of illness or other circumstances beyond his control.

Expiration of
certificate.

(4) (a) Every applicant shall be examined by a medical officer before commencing employment and if the medical officer finds upon examination that the applicant is free from diseases of the respiratory organs and otherwise fit for employment in a dust exposure occupation he shall issue to the applicant an initial certificate.

Examination
before em-
ployment.

(b) The holder of an initial certificate shall, prior to the expiration thereof, present himself to a medical officer for re-examination and if the medical officer finds upon examination that such holder is free from disease of the respiratory organs and otherwise fit for employment in a dust exposure occupation he shall,

Initial
certificate
holder, re-
examination.

- (i) in the case of a holder who since the issuance of his initial certificate has completed less than eleven months employment in a dust exposure occupation, extend such certificate for such period as he may deem necessary to permit the certificate holder to complete twelve months employment in a dust exposure occupation, and he may from time to time extend such certificate for the same purpose, and
- (ii) in the case of a holder of an initial certificate who since the issuance of his initial certificate has completed eleven months or more employment in a dust exposure occupation endorse such certificate.

Issue of
miner's
certificate.

(5) (a) The holder of an endorsed certificate who since the endorsation of his initial certificate has completed eleven months or more employment in a dust exposure occupation shall, prior to the expiration thereof, present himself to a medical officer for examination and if the medical officer finds upon examination that such holder is free from tuberculosis of the respiratory organs he shall issue him a miner's certificate.

Miner's
certificate
holder, re-
examination.

(b) The holder of a miner's certificate shall, prior to the expiration thereof, present himself to a medical officer for re-examination and if the medical officer finds upon examination that such holder is free from tuberculosis of the respiratory organs, he shall renew such certificate, which may be further renewed from year to year upon the passing of a similar examination.

Unemployed
holder of
certificate.

(6) The holder of any certificate who, for any reason, is out of employment in a dust exposure occupation may apply to a medical officer for the extension, endorsement or renewal of his certificate or for the issuance of a miner's certificate, as the case may be, and upon presentation of the holder's certificate the medical officer shall conduct the required examination and effect such extension, endorsement, issuance of renewal as may be warranted by his findings upon such examination.

Holder of
initial or
extended
certificate.

(7) (a) Where the holder of an initial or extended certificate has been out of employment in the mining industry for a period exceeding one year and during such period has failed, through neglect on his part, to have his certificate extended or endorsed, such certificate shall be void and the holder thereof shall be eligible for re-employment in a dust exposure occupation in the capacity of an applicant only.

Holder of
endorsed or
miner's
certificate.

(b) Where the holder of an endorsed certificate or miner's certificate has been out of employment in the mining industry for a period exceeding two years and during such period has

failed, through neglect on his part, to obtain a miner's certificate or to have a miner's certificate renewed, his certificate shall be void and the holder thereof shall be eligible for re-employment in a dust exposure occupation in the capacity of an applicant only.

(c) Where the holder of any certificate has been out of employment in the mining industry for a period exceeding three years, he shall be eligible for re-employment in a dust exposure occupation in the capacity of an applicant only. Where un-employment exceeds three years.

(8) The manager or superintendent of the mine at which the holder of a certificate is employed may require such certificate to be delivered to and left in the custody of such manager or superintendent during the period of the holder's employment at the mine but such certificate shall be returned to the holder upon the termination of his employment at such mine. Custody of certificate.

(9) (a) The Chief Inspector may exempt from the provisions of subsections 2 to 8 any mine or any person employed thereat where, in his opinion, the mine does not contain silica in quantity likely to produce silicosis or where for any other reason he is of the opinion that such subsections should not apply. Exemptions.

(b) Subsections 2 to 8 shall not apply to any person usually employed in a dust exposure occupation for less than fifty hours in each calendar month.

(10) The Lieutenant-Governor in Council may make regulations, Regulations.

- (a) prescribing the nature of the examination to be made by a medical officer under subsections 4 to 7;
- (b) prescribing the forms of certificates and extensions, endorsement and renewals thereof;
- (c) generally for the better carrying out of the requirements of subsections 2 to 9. 1948, c. 56, s. 13, *part*.

PENALTY

158. Where a contravention of section 153, 155 or 156 takes place, the owner or agent of the mine, or both of them, may be proceeded against, jointly or separately, and may be convicted of such offence, but neither the owner nor the agent shall be so convicted if he proves that the offence was committed without his knowledge or consent, and that he had caused notices of the said sections to be posted up, and to be kept posted up, at some conspicuous place at or near the entrance to the mining work. 1948, c. 56, s. 13, *part*. Penalty for employment of persons contrary to Act.

PROTECTION OF UNUSED WORKINGS

Fencing of
abandoned
or unworked
mines.

159.—(1) Where a mine has been abandoned or the work therein has been discontinued, the owner or lessee thereof or any other person interested in the mineral of the mine shall cause the top of the shaft and all entrances from the surface as well as all other pits and openings dangerous by reason of their depth or other conditions to be and to be kept securely fenced to the satisfaction of the Inspector, except that the Chief Inspector may grant exemption in writing if in his opinion such mine or workings present no greater hazard than the natural topographic features of the district.

Failure to
erect fence
after notice.

(2) Every such person who, after notice in writing from the Inspector, fails to comply with his directions as to such fencing within the time named in the notice shall be guilty of an offence against this Act.

When
Inspector
may erect
fence.

(3) Where the Inspector finds that any such fencing is required in order to avoid danger to health or property he may cause the work to be done and may pay the costs incurred out of any moneys provided for the purposes of this Act, and the amount of such costs, with interest thereon, shall be a lien and charge upon the mine or mining work of which notice in such form as the Minister may prescribe may be registered in the proper registry or land titles office, and no further transfer or other dealings with the mine or mining work shall take place until such amount is paid.

Recovery
of costs
of work.

(4) The amount of such costs with interest thereon shall be due from the owner or lessee to the Crown and recoverable at the suit of the Inspector in any court of competent jurisdiction. 1948, c. 56, s. 13, *part*.

Discharge of
fencing
liens.

(5) Notwithstanding subsections 3 and 4, the Minister, either without payment or on such terms and conditions as he may deem proper, may cause a cessation of charge to be registered in the proper registry or land titles office, and thereupon the lien and charge registered under subsection 3 shall be void and of no effect. 1949, c. 59, s. 9 (1).

PROCEDURE, FATAL ACCIDENTS

Coroner
to hold
inquest.

160.—(1) (a) Where a fatal accident occurs in or in connection with a mine, an inquest shall be held.

Duty of
manager.

(b) The manager or other person in charge of a mine wherein or in connection wherewith a fatal accident occurs shall forthwith notify a coroner having jurisdiction in the place where the accident occurred.

(c) A coroner who is in any way in the employment of the owner or lessee of a mine wherein or in connection wherewith a fatal accident occurs shall be ineligible to act as coroner in connection with such fatal accident. Eligibility of coroner.

(d) Where a fatal accident occurs in or in connection with a mine at a place which is more readily accessible to a coroner not having jurisdiction in such place than to any eligible coroner having jurisdiction thereat, the supervising coroner for Ontario may direct such coroner to issue his warrant and conduct an inquest and such direction shall be such coroner's authority therefor. Supervising coroner may direct.

(2) The Inspector and any person authorized to act on his behalf shall be entitled to be present and to examine or cross-examine any witness at an inquest held concerning a death caused by an accident at a mine, and if the Inspector or someone on his behalf is not present, the coroner shall, before proceeding with the evidence, adjourn the inquest and give the Deputy Minister not less than four days notice of the time and place at which the evidence is to be taken. Right of Inspector re inquest.

(3) Where in or about any mine, metallurgical works, quarry, sand, clay or gravel pit, any accident occurs which causes loss of life to any person employed thereat, the owner, agent, manager or superintendent thereof shall immediately notify the Inspector resident in that part of Ontario in which the accident occurred and the Chief Inspector by telephone or telegraph. Notice of fatal accidents.

(4) Subject to subsection 5, no person shall, except for the purpose of saving life or relieving human suffering, interfere with, destroy, carry away or alter the position of any wreckage, article or thing at the scene of or connected with the accident until an Inspector has completed an investigation of the circumstances surrounding such accident. Scene to be undisturbed.

(5) Where it is impossible for an Inspector to make an immediate investigation of an accident the Chief Inspector or any Inspector may permit such wreckage, articles and things at the scene of or connected with the accident to be moved to such extent as may be necessary to permit the work of the mine, metallurgical works, quarry, sand, clay or gravel pit to be proceeded with, provided photographs or drawings showing details of the scene of the accident have been made prior to such moving. 1948, c. 56, s. 13, *part.* Permission to alter scene.

RESPONSIBILITY AS TO RULES

161.—(1) Where the owner, agent or manager of a mine, by his application in writing stating his reasons therefor, Suspension of rule.

requests the Inspector to suspend the requirements of any rule under section 162 as to such mine, the Chief Inspector, upon the recommendation of an Inspector, may in writing direct that the requirements of such rule shall not apply to such mine, or may in writing direct that such rule shall not apply so long as such limitations and conditions as he may see fit to impose are observed or complied with.

Cancellation
of suspension.

(2) The Chief Inspector may at any time cancel any order made under subsection 1, or make such alterations therein as he may deem proper in view of any change in the conditions under which such order was made or upon it appearing to him that such change, for any other cause, is advisable.

Manager
may make
rules.

(3) (a) The manager of a mine may make rules not inconsistent with any rule herein set out, or any special direction made by an Inspector as hereinbefore provided, for the maintenance of order and discipline and the prevention of accidents in the mine, and may submit any rule so made to the Chief Inspector, who shall lay the rules before the Minister for his approval, and upon such approval being given the rules shall take effect after they have been posted up in a conspicuous place at the mine for at least fourteen days, provided that the Minister may disallow any of such rules or direct such changes to be made in them as he may deem proper.

(b) Every such rule after approval and when and so long as it is posted up and is legible shall have the same force and effect as the rules and regulations set out in this Act and any person who contravenes any such rule shall be liable to the penalty provided for a breach of the rules and regulations in this Act.

Responsi-
bility as to
carrying
out rules.

(4) (a) The owner of a working mine or works shall appoint a manager who shall be responsible for the control, management and direction of the mine or works.

(b) Except as to any rules which the Chief Inspector has directed shall not be applicable thereto,

(i) the manager of the mine shall take all necessary and reasonable measures to enforce the requirements of the rules set forth in section 162 and to ensure that they are observed by every employee of the mine, and every foreman, shift boss, mine captain and department head shall take all necessary and reasonable measures to enforce the requirements of all such rules as are applicable to the work over which he has supervision and to ensure that the same are observed by the workmen under his charge and direction,

(ii) every workman shall take all necessary and reasonable measures to carry out his duties in accordance

with such rules as are applicable to the work in which he is engaged,

- (iii) every person through whose neglect or wrongful act a contravention shall occur shall be deemed to have incurred the penalties provided for a breach of the rules.

(c) The manager of a working property shall appoint some suitable person or persons who shall be responsible, during such manager's absence, for taking all necessary and reasonable measures to enforce the requirements of clause *b* of sub-section 4.

(5) The owner or agent shall provide the manager of a mine or works with the necessary means and shall afford him every facility for complying with the requirements of the rules as set forth in this Part. Owner to give facilities to manager to comply.

(6) Where work in or about a mine is let to a contractor or sub-contractor, he shall comply and enforce compliance with all the rules and provisions of this Part pertaining to the work over which he has control and shall in any case of non-compliance therewith be guilty of an offence and punishable in like manner as if he were owner or agent. 1948, c. 56, s. 13, *part*. Liability of contractors and sub-contractors.

RULES

162. Subject to section 161, the following rules shall be observed and carried out at every mine and the decision of the Inspector as to whether or not any situation complies with any requirement of the rules in which "suitable", "adequate", "approved" or any expression of like import is used and as to the meaning and application of any such expression shall be final and conclusive and a certificate of any such decision signed by the inspector may be used as evidence in any court: Rules.

(1) It shall be the duty of every manager, superintendent, mine foreman, shift boss, hoistman, deckman, cagetender or skiptender, and every person in charge of workmen, or who handles explosives, or who operates, installs or has to do with maintenance of any machinery or electrical apparatus in or about a mine, to know such of these rules as apply to the work in which he is engaged. Duty as to knowledge of rules.

(2) Every person employed as a foreman, meaning thereby one who is exclusively engaged in supervising the work of other men, shall be able to give and to receive and understand orders in the English language. Foreman, knowledge of English language.

Other work-
men, knowl-
edge of
English
language.

(3) Every person in charge as a deckman, cagetender, skip-tender or hoistman shall have an adequate knowledge of the English language to enable him to carry out his duties in a thoroughly safe manner.

Fire Protection

Procedures.

(4) (a) General procedures to be followed both on surface and underground in case of fire underground or in any mine plant building which may endanger the mine entrance shall be drawn up and all persons concerned shall be informed and kept informed of their duties. Copies of the procedure or suitable excerpts shall be kept posted in the shafthouse or other prominent places.

Idem.

(b) Procedures for fighting fire in surface plant buildings at a mine shall be drawn up and suitable signs pertaining to and excerpts from the procedures shall be kept posted in prominent places.

Removal of
inflammable
material,
from under-
ground
workings;

(5) (a) No inflammable refuse shall be allowed to accumulate underground, but shall be removed from the workings at least once a week and be brought to the surface and there disposed of in a suitable manner.

from surface
buildings.

(b) Inflammable refuse shall not be allowed to accumulate in or about any headframe, shafthouse, portalhouse or any other plant building.

Metal
containers.

(c) Suitable metal containers for the temporary disposal of inflammable refuse such as scrap paper, oily waste, rags, and other similar materials, shall be provided at all shaft stations, underground shops, lunch rooms and buildings or enclosures necessary for the housing of machinery or equipment or stores and such containers shall be regularly emptied and the material so accumulated brought to the surface and disposed of in a suitable manner.

Building
fires
prohibited.

(6) No person shall build, set or maintain a fire underground for any purpose unless he has proper authority and suitable instructions for so doing, and only after the necessary fire-fighting equipment has been provided.

Certificate
as to inflam-
mable refuse.

(7) Every shift boss and mine captain shall certify in writing to the mine manager at least once a week that there is no accumulation of inflammable refuse underground in the area under his supervision except as reported by him.

Storage of
oil and
grease.

(8) Oil, grease or other inflammable material shall not be stored in a shafthouse or portalhouse, but it may be permissible, if adequate precautions be taken, to have in the shaft-

house or portalhouse, for distribution only, an amount not exceeding the requirements for one day's operation.

(9) Volatile, inflammable liquids shall not be stored in a shafthouse or portalhouse and such material shall be transported underground only in approved types of metal containers. ^{volatile, inflammable liquids.}

(10) Oil, grease or volatile inflammable liquid while underground shall be contained in suitable receptacles and the amount of oil or grease so kept underground shall not exceed the requirements for seven days and the amount of volatile inflammable liquid kept underground shall not exceed the requirements for the current day's work. ^{Oil and grease under-ground.}

(11) All timber not in use in a mine shall as soon as practicable be taken from the mine and shall not be piled up and permitted to decay therein. ^{Unused timber.}

(12) Where open-flame lights are used at any mine not equipped with a fireproof headframe and shafthouse or portalhouse, the interior of the shafthouse or portalhouse shall be tightly sheeted with metal or a suitable fireproofing material to a height of eight feet. ^{Open-flame lights, precautions.}

(13) All underground shops, lunch rooms and buildings or enclosures necessary for the housing of machinery and equipment and stores and the furnishings of such shall be so located, constructed and maintained as to reduce the fire hazard to a minimum. ^{Fireproofing underground structures.}

(14) (a) If, in the opinion of the Chief Inspector, a fire hazard may be created at a mine by smoking, the use of open-flame lamps, matches, or other means of producing heat or fire, he may designate such mine or part or parts of such mine as a fire hazard area. ^{Fire hazard areas.}

(b) No person shall smoke or be allowed to smoke, use open-flame lamps, matches or other means of producing heat or fire in such areas except with the permission in writing of the Chief Inspector and under such conditions as he may deem proper.

(c) Such fire hazard areas shall be properly identified by means of suitable warning signs. The owner or manager shall cause such signs to be installed and maintained as long as the area is so designated.

(15) (a) Suitable fire-fighting equipment shall be provided and maintained in or about every headframe, shafthouse, portalhouse and every other plant building and at every shaft or winze station underground. ^{Fire-fighting equipment.}

(b) Suitable fire-fighting equipment shall be provided and maintained at all underground crushers, pump stations, tipples and underground electrical installations except where, in the opinion of the Inspector, no fire hazard exists.

(c) A properly authorized person or persons shall make a monthly inspection of all fire-fighting equipment and shall make a report, in writing, to the manager stating that such examination has been made and certifying as to the conditions found.

Storage of
carbide.

(16) (a) Calcium carbide shall be stored on the surface only, in a suitable dry place other than the shafthouse or portalhouse or changehouse, and in its original unopened container.

Distribution
of carbide.

(b) For the purpose of distributing calcium carbide adequate provisions for the handling of quantities not in excess of one day's supply or 100 pounds, whichever is the greater, shall be made at every mine. Such distribution shall not take place in any shafthouse, portalhouse or changehouse unless such structure is thoroughly fireproof but shall be provided for by the installation of a suitable distribution centre not closer than fifty feet to the nearest point of any part of the headframe, shafthouse or portalhouse.

Handling
of carbide.

(c) Adequate precautions shall always be taken to ensure that calcium carbide is handled in a safe manner and no calcium carbide shall be taken underground except in suitable containers.

Fire protec-
tion where
torches used.

(17) Where operations involving the use of acetylene, kerosene, gasoline or other torches are conducted in any headframe, shafthouse, portalhouse, or any other building a fire in which may endanger the mine entrance, or in the underground workings of any mine, suitable measures for protection against fire shall be adopted and rigidly adhered to.

Underground
transporta-
tion of com-
pressed
gases.

(18) Where cylinders of compressed gas, such as acetylene and oxygen, are transported underground for any cutting or welding operation, all fittings, such as regulators or manifolds, shall be disconnected from the cylinders and the valves shall be protected in a suitable manner. Any such removable protective device shall be replaced at any time a cylinder is left unattended or before a cylinder is moved to a new location.

Operation
of welding
and cutting
torches.

(19) (a) In all cases where cylinders of compressed gas are operated from within any cage, skip or other shaft conveyance, or where the cylinders are set up in a location not readily accessible to the workman operating the nozzle equipment a second competent operator shall be employed at all times to attend to the operation of the cylinder-control devices.

(b) In all cases where cylinders of compressed gas are used underground for the purpose of supplying cutting or welding equipment special precautions shall be observed to avert the possibility of damage to or failure of the regulators, manifolds and hoses used in conjunction with the equipment. Compressed gas.

(20) No device for the generation of gas, such as acetylene for supplying cutting or welding equipment, shall be used in the underground workings of any mine. Generation of gas underground forbidden.

(21) In every mine where a vertical or inclined shaft has been sunk or an adit driven and stoping has commenced there shall be provided and maintained, in addition to the hoisting shaft or the opening through which men are let into or out of the mine and the ore extracted, a separate escapement shaft or opening. Such auxiliary exit shall not be less than fifty feet from the main entrance to the mine and any structure covering such auxiliary exit shall be of such material and so constructed as to reduce the fire hazard to a minimum. If such an escapement shaft or opening is not in existence at the time that stoping is commenced, work upon it shall be begun as soon as stoping is commenced, and shall be diligently prosecuted until the same is completed and means of escapement other than the main outlet of the mine provided to and connected with the lowest level on which stoping operations are being carried on. The escapement shaft or opening shall be of sufficient size to afford an easy passageway, and, where necessary, shall be provided with good and substantial ladders from the deepest workings to the surface. Escapement shaft.

(22) Legible signs showing the way to emergency exits shall be posted in prominent places underground and all workmen shall be instructed as to the location of auxiliary exits. Legible signs showing exits.

(23) Unless there is first provided a second means of exit from the mine workings, no building shall be erected within fifty feet of any closed-in portion of a headframe or portal-house, except that the building housing the hoist and power plant equipment may be erected within this distance provided that such distance be not less than thirty-five feet. Buildings in proximity to mine entrance.

(24) All plant buildings where men are regularly employed except those used for explosives shall have suitable and adequate auxiliary exits in addition to the main entrance. These auxiliary exits shall always be maintained available for use in case of fire. Auxiliary exits for plant buildings.

(25) No steam boiler or diesel engine shall be installed in such a manner that any portion thereof is within seventy-five feet of the centre line of the collar of any shaft or other entrance to a mine. Location of boilers and diesel engines.

Location of
internal
combustion
engines.

(26) No gasoline or other internal combustion engine using highly volatile liquids or inflammable gases shall be installed within fifty feet of the building housing the hoist nor within one hundred feet of the centre line of the collar of any shaft or other entrance to a mine.

Exhaust of
internal
combustion
engine.

(27) Where an internal combustion engine is installed at any mine provisions shall be made for safely conducting the exhaust of such engine to a point well outside the building. The exhaust shall be so arranged as to avert the possibility of fumes re-entering the building or entering the intake of any air compressor or contaminating the atmosphere of any adjacent buildings or the mine workings.

Storage of
liquid fuels.

(28) Except for the actual fuel tanks of operating equipment no storage of gasoline or liquid fuel shall be permitted within one hundred feet of the collar of a shaft or other entrance of a mine. The natural drainage from such a location shall be such that the flow is in a direction opposite to the location of any such shaft or mine entrance.

Transfer of
liquid fuel.

(29) (a) The fuel tanks of any internal combustion engine installed within a building shall be so arranged that the actual transfer of fuel to the fuel tank takes place at a point outside the building and the fuel is conducted to the tank in a tightly-jointed pipe or conduit. Similar provisions for the escape of displaced air from the fuel tank shall be made whereby the displaced air shall be conducted to a safe point outside the building before being discharged to the atmosphere.

Idem.

(b) The transfer of liquid fuels from one container to another by the direct application of air under pressure shall not be permitted, except where properly designed and tested equipment is used for this purpose.

Stench
warning.

(30) (a) Every mine worked from shafts or adits producing over one hundred tons of ore per day and such other mines as may be designated by the Inspector shall be equipped with an approved apparatus for the introduction into the mine workings of ethyl mercaptan or other warning gas or material approved by the Chief Inspector. Such apparatus shall at all times be made available and kept ready for instant use for the purpose of warning workmen underground of any emergency necessitating a speedy evacuation of the workings.

Idem.

(b) A test of the effectiveness of the warning and a report as to the functioning of the system shall be made at least once in each year and a report of such test and functioning made available to the Inspector.

Fire doors.

(31) Where practicable, there shall be a sufficient number of fire doors installed underground in every mine to cut off the

shaft and/or the mine openings directly associated with it from the other workings of the mine. Where fire doors are installed they shall be maintained in proper order and kept clear of all obstructions so as to be readily usable at all times.

(32) Where the Chief Inspector deems it necessary or advisable for the protection of workmen employed underground, he may order refuge stations to be provided and maintained at such places within the mine as he may direct and every such refuge station shall have water, air and telephone connections to the surface and be separated from the adjoining workings by closeable openings so arranged and equipped that gases can be prevented from entering the refuge station. Refuge stations within mines.

(33) (a) Where the Chief Inspector deems it necessary or advisable for the protection of workmen employed underground, he may recommend in writing to the Minister that a connection between mines be established at such place as he deems advisable and he may further recommend that such connection be so made and equipped as to constitute a refuge station or refuge stations. Upon the approval by the Minister of any such recommendation, a copy thereof, accompanied by a copy of this rule, shall be served personally upon or mailed by registered post to the owner or the agent and the manager of each of the mines affected. Connection between mines.

(b) Upon the approval of any such recommendation of the Chief Inspector, the Minister may in writing signed by him direct each of the mining companies concerned to appoint a representative to act in their behalf on a committee under the chairmanship of a third party who shall be a mining engineer recommended by the Chief Inspector and appointed to the chairmanship of the committee by the Minister; this committee shall determine, Committee.

- (i) the design, specifications and locations of the connecting passages, bulkheads or other structures to be constructed in order to safeguard the present and future operations of the mines affected,
- (ii) the work to be done by each of the mines affected and the proportion in which the cost of such work and of establishing and maintaining the connection shall be borne by the owners of the mines affected,
- (iii) the time at which such work in compliance herewith shall be commenced and completed,
- (iv) the proportion in which the costs and expenses of the committee shall be borne by the owners of the mines affected,

(v) such other provisions or requirements as in the premises they may deem necessary or advisable.

Idem. (c) The committee shall submit a report in writing to the Minister and a report of the majority of the committee shall be deemed to be the finding of the committee.

Idem. (d) Upon the approval by the Minister of the report of the committee, the Chief Inspector may issue his order for the establishment and maintenance of such connection and refuge station or stations (if any recommended) in accordance with the terms of such report. A copy of the report shall be attached to the order and form a part thereof. No such order shall be subject to appeal upon any ground whatsoever but shall be enforceable in the same manner as any order of the Chief Inspector.

Aid to Injured

Stretchers for conveyance of injured persons. (34) At every mine there shall be maintained a sufficient number of properly constructed stretchers for the proper handling and transporting of persons who may be injured in the discharge of their duties about the mine.

First aid supplies. (35) There shall be provided and maintained at every mine for the treatment of anyone injured such first aid supplies as are required by the regulations of *The Workmen's Compensation Act*.

Rev. Stat.,
c. 430.

Handling Water

Removal of water from mine workings. (36) Every working mine shall be provided with suitable and efficient machinery and appliances for keeping the mine free from water, the accumulation or flowing of which might endanger the lives of workmen in such mine or in any adjoining mine.

Precautions against flow of water. (37) Where there is or may be an accumulation of water, any working approaching the same shall have bore holes kept in advance, and such additional precautionary measures shall be taken as may be deemed necessary to obviate the danger of a sudden breaking through of the water.

Bulkhead in sump. (38) A bulkhead or other suitable stop shall be placed in every working shaft to prevent that part of the hoisting conveyance carrying men from being inadvertently lowered into water in the sump of the shaft.

Dams and bulkheads. (39) For the purposes of this rule,

"dam" means any structure built for the purpose of impounding water in any drift, crosscut or other mine

opening and constructed in such a manner as to permit an unobstructed overflow of the water;

“bulkhead” means any structure built for the purpose of impounding water or confining air under pressure in any drift, crosscut or any other mine opening and constructed in such a manner as to completely close off such drift, crosscut or other mine opening.

(a) The location of every underground dam and bulkhead, within the meaning of this rule, shall be clearly shown on the mine plans.

(b) No dam behind which more than twenty-five tons of water may be impounded shall be constructed underground without the written permission of the Chief Inspector and then only when constructed in accordance with plans and specifications which have been approved by him.

(c) No bulkhead shall be constructed underground without the written permission of the Chief Inspector and then only when constructed in accordance with plans and specifications which have been approved by him.

Ventilation

(40) (a) The ventilation in every mine shall be such that the Ventilation. air in all of its workings that are in use or are to be used by workmen or others shall be free from dangerous amounts of noxious impurities and shall contain sufficient oxygen to obviate danger to the health of anyone employed in any such mine. In any mine workings where such conditions cannot be obtained by natural ventilation approved means for mechanical ventilation shall be provided and kept in operation until such workings have been abandoned or until satisfactory natural ventilation shall have been brought about therein.

(b) All fans and all structures containing the same shall be of fireproof construction.

(41) (a) No internal combustion engine shall be installed or operated in any shaft or adit or in any working in connection with such shaft or adit, unless permission in writing from the Chief Inspector is first obtained. Internal combustion engine underground.

(b) No internal combustion engine shall be installed or operated in any clay, sand or gravel pit or in any quarry or other open pit working designated by the Inspector as unsafe for this purpose.

Sanitation

(42) The manager of a mine shall provide or cause to be provided on the surface and in the underground workings Sanitary conveniences.

sufficient and suitable sanitary conveniences in accordance with the following rules:

- (a) Where men are employed underground one sanitary convenience shall be provided for every twenty-five persons or portion thereof on any shift.
- (b) Where men are employed on surface one sanitary convenience and one urinal shall be provided for every twenty-five persons or portion thereof on any shift.
- (c) Where female persons are employed separate toilets with entirely separate entrances from those furnished the men shall be provided. One toilet shall be provided for every fifteen females or portion thereof on any shift. These rooms shall be clearly marked as to the sex for which they are provided.

Idem.

(43) (a) Sanitary conveniences underground shall be kept clean and sanitary, shall be conveniently placed with reference to the number of men employed on the different levels and shall be placed in a well ventilated part of the mine and shall be suitably disposed of regularly.

(b) Sanitary conveniences, urinals and toilets on surface shall be kept clean and sanitary.

Idem.

(44) Any person depositing faeces in any place underground other than in the sanitary conveniences provided shall be guilty of an offence against this Act.

Dressing
room.

(45) If men are employed underground at any mine or in hot or dusty occupations on surface at any mine or works, sufficient accommodation, including supplies of clean, cold and warm water for washing, shall be provided above ground near the principal entrance of the mine or works for enabling the persons employed to conveniently dry and change their clothes. Such accommodation, unless of fire resistant construction, shall not be nearer than fifty feet to a shafthouse or portalhouse; it shall not be located in an enginehouse or boilerhouse except where a separate, properly constructed room is provided.

Care and Use of Explosives

Precaution
to be taken.

(46) Every possible precaution shall be taken in the handling and transportation of explosives.

Marking of
explosive
packages.

(47) No explosive shall be used at any mine, unless there is plainly printed or marked on every original package containing such explosive the name and place of business of the manufacturer, and the strength of the explosive and the date of its manufacture.

(48) Every case of supposedly defective fuse, detonator or blasting cap, or explosive shall be reported to the Inspector with the name and address of the manufacturer and accompanied, if available, by the packing slip from the original container of such fuse, blasting cap or detonator, or explosive, along with all other pertinent information available. ^{Defective explosives to be reported.}

(49) Except as otherwise provided herein, all explosives and all detonators or blasting caps shall be stored on surface in special suitable buildings, such as magazines, thaw houses, detonator or blasting cap storage buildings, or cap and fuse houses. Every such building shall be under the direction of the manager or some person authorized by him. ^{Storage of explosives.}

- (a) No such building shall be erected or maintained at any mine except with the written permission of an Inspector, nor until the site of the building and the style of structure have been approved by him.
- (b) Such written permission shall state the maximum quantity and kind of explosive that may be stored in the building.
- (c) Where possible, every such building shall be located in accordance with the British Table of Distances in respect of its distance from the mine or works or any other buildings or any public highway or public railway. Where conditions are such that it is impossible to locate such buildings in accordance with the British Table of Distances, the mine manager and the Inspector shall jointly choose the most suitable location.
- (d) Every such building shall be constructed of such materials as to ensure as far as possible against accident from any cause.
- (e) The rules in reference to the care and use of explosives shall be kept posted up inside every such building.
- (f) Every such building shall be kept securely locked at all times as the attendant is not present and it shall be clearly indicated by easily visible sign or signs that explosives are stored therein. Such sign or signs shall be posted beside the road approaches to the building at least eight feet above the ground and twenty-five feet distant from the entrance.

(50) The manager shall depute or cause to be deputed some suitable person or persons whose duty it shall be to keep all magazines, thaw houses, blasting-cap storage buildings, cap and fuse houses, and explosive storage boxes clean and dry and free from grit at all times. ^{Magazines, thaw houses, etc.}

Floors and shelves.

(51) Floors and shelves of magazines and thaw houses shall be treated with a suitable neutralizing agent whenever necessary to remove any traces of explosive substances.

What explosives to be used first.

(52) When supplies of explosives are removed from a magazine those that have been longest in the magazine shall be used first provided they are not defective. In all cases where explosives have become defective they shall be suitably and safely disposed of.

Opening cases.

(53) Only implements of wood or fibre shall be used in opening cases containing explosives.

Storage of explosives underground.

(54) (a) Explosives, including caps and fuse, shall not be stored underground in excess of the necessary underground supply for forty-eight hours. In no case shall an amount exceeding three hundred pounds of powder be stored in any one place underground without the written permission of the Inspector.

(b) With the written permission of the Inspector and subject to such conditions as he may prescribe, underground explosives magazines may be established, but in no case shall more than five hundred pounds be stored in any one magazine.

(c) Explosives stored underground shall be kept in suitable containers or magazines in suitable locations. In no case shall the explosives be stored in places where there is a possibility of any train or car colliding with the explosives container or containers.

Location of underground storage place.

(55) No explosive shall be stored within two hundred feet of any shaft station or transformer station underground in any mine.

Storage of detonators.

(56) (a) Detonators or blasting caps shall not be stored in the same receptacle or storage building as other explosives.

(b) Detonators or blasting caps or capped fuse, while stored in underground workings, shall be kept in separate, suitable, closed containers or magazines. Such containers or magazines shall not be located within twenty-five feet of any other explosives.

Open-flame lamps, smoking, explosives storages.

(57) (a) No flame-type light shall be taken within twenty-five feet of any building or place on surface in which explosives are stored.

(b) No flame-type light shall be taken within ten feet of any place underground where explosives are stored unless a suitable, safe arrangement for the placing of such light is provided.

(c) No person shall smoke in any place or building where explosives are stored or while handling explosives.

(58) (a) A properly authorized person or persons shall make a thorough weekly inspection of all explosives, explosives magazines, thaw houses, detonator or blasting-cap storage buildings, cap and fuse houses, and all storage boxes or places in or about the mine used for the purpose of storing explosives or detonators or blasting caps and shall make a report in writing to the manager stating that such examination has been made and certifying as to the conditions found. Inspection of storage places.

(b) The manager shall take immediate steps to correct any unsuitable conditions found and to properly dispose of any deteriorated explosives existing and shall make a prompt investigation when an act of careless placing or handling of explosives is discovered by or reported to him.

(c) Any employee who commits a careless act with an explosive or where explosives are stored, or who, having discovered such an act to have been committed, omits or neglects to report immediately such act to an officer in charge of the mine, shall be guilty of an offence against this Act and the officer in charge of the mine shall immediately report such offence to the Inspector or to the Crown attorney of the county or district in which the mine is situate.

(59) When any mine is closed down all explosives, fuse, detonators and blasting caps shall be disposed of and no explosive may be stored at any such closed-down mine without the written permission of the Chief Inspector. Disposal of explosives at shut-down mine.

(60) No person shall take away from any mine any explosive, fuse or detonator or blasting cap without the written permission of the manager or of such person as may be authorized by the manager to give such permission. Written permission.

(61) No building for thawing explosives shall be maintained in connection with any mine except with the written permission of an Inspector. The building shall be above ground and the site of the building and the style of the structure and equipment shall be subject to the approval of the Inspector. The quantity of explosive kept in any thawing house at any time shall not exceed the requirements of the mine for a period of twenty-four hours plus the amount that may be necessary to maintain that supply, but the Inspector may give permission in writing to store a quantity not in excess of the permitted capacity of the building if, in his opinion, the heating equipment is such that the temperature can be controlled within approved safe limits. Thawing houses.

(62) A reliable recording thermometer shall be kept in the room in which explosives are thawed and the record thereof kept, but where the amount of explosives in such thawing room does not exceed two hundred pounds at any one time, Thermometer in thawing house.

the Inspector may give permission in writing to use a maximum and minimum registering thermometer on condition that a daily record of high and low temperatures be made and kept on file for at least one year. All records shall be made available to the Inspector.

Prohibition. (63) In no case shall powder be thawed near an open fire or steam boiler or by direct contact with steam or hot water.

Transportation of explosives in shaft.

(64) (a) When the day's supply of explosives is being transported in any shaft conveyance the person in charge of such operation shall give or cause to be given notice of the same to the deckman and hoistman.

(b) No person shall place in, have while in, or take out of the shaft conveyance any explosives except under the immediate supervision of a person authorized by the manager, superintendent, foreman or shift boss for the purpose.

(c) No other material shall be transported with explosives in any shaft conveyance.

Transfer of explosives from storage places.

(65) (a) The transfer of explosives from the magazine or other surface storage place shall be so arranged that no undue delay shall occur between the time the explosives leave such surface storage place and the time they are properly stored in designated storage places in the mine or distributed to points of use in the mine.

(b) Explosives shall not be left at any level station or near the shaft collar or other entrance to the mine but shall be transferred from any designated storage place to other designated storage places or points of use without undue delay.

Transportation of detonators.

(66) (a) Primers shall be made up as near to their point of use as is practical in the interests of safety and only in sufficient numbers for the immediate work in hand.

(b) Detonators or blasting caps, capped fuse, made-up primers or other explosives shall not be transported in any conveyance either on the surface or underground unless placed in separate, suitable, closed containers.

(c) It shall be permissible for a workman to carry capped fuses with other explosives from the nearest storage places to a point of use without placing them in a container provided they are kept separate from the other explosives, but in no case shall made-up primers be transported or carried unless placed in separate, suitable, closed containers.

Transportation of explosives underground;

(67) (a) Where explosives are transported in mine workings by means of a car or cars, the speed of any car or cars shall not at any time exceed four miles per hour and definite arrange-

ments for the right-of-way of such car or cars carrying explosives shall be made before the car or cars are moved.

(b) Where mechanical haulage is used the haulage locomotive shall be maintained on the forward end of the train carrying explosives unless some person walks in advance of the train to effectively guard the same. The car or cars carrying explosives shall be separated from the locomotive by an empty car or a spacer of equivalent length; in no case shall explosives be carried on the haulage locomotive. by motor haulage;

(c) Where a trolley locomotive is used for the transportation of explosives in any mine the car or cars carrying explosives shall be protected from trolley-wire contact and other existing hazards. by trolley locomotive.

(68) Where parties working contiguous or adjacent claims or mines disagree as to the time of setting off blasts, either party may appeal to the Inspector, who shall decide upon the time at which blasting operations thereon may be performed, and the decision of the Inspector shall be final and conclusive and shall be observed by them in future blasting operations. Blasting on contiguous claims.

(69) No explosive shall be removed from its original paper container or cartridge. Explosives not to be removed from original container.

(70) No explosive shall be used to blast or break up ore, salamander or other material where by reason of its heated condition there is any danger or risk of premature explosion of the charge. Blasting of roast heaps.

(71) All drill holes, whether sunk by hand or machine drills, shall be of sufficient size to admit of the free insertion to the bottom of the hole of a stick or cartridge of powder, dynamite or other explosive, without ramming, pounding or pressure. Size of drill holes.

(72) In charging holes for blasting, no iron or steel tool or rod shall be used, and no iron or steel tool shall be used in any hole containing explosives. No iron or steel tool.

(73) (a) Before drilling is commenced in any working place the exposed face shall be washed with water and carefully examined for misfires and cut-off holes, giving special attention to old bottoms. Procedure before drilling.

(b) No drilling shall be done within six inches of any hole that has been charged and blasted or any remnant of such hole. Bootleg holes.

(c) No drilling shall be done within five feet of any hole containing explosives.

(74) Every workman shall, before blasting, give or cause to be given due warning in every direction by shouting "Fire" and shall satisfy himself that all persons have left the working Due warning required.

place or the vicinity except those required to assist him in blasting and guarding.

Guarding
entrances
where blast-
ing is done.

(75) (a) Every workman shall, before blasting, cause all entrances or approaches to the place or places where such blasting is to be done or where the safety of persons may be endangered by such blasting, to be effectively guarded so as to prevent inadvertent access to such place or places while such charges are being blasted.

(b) Posting of signs shall not be deemed adequate protection to warn of blasting operations.

Breaking
through to
mine
workings.

(76) Where possible, no connection between mine workings shall be made until a thorough examination of the working towards which the active heading is advancing has been made and has shown that the work can be proceeded with in a safe manner, and such point of connection shall be guarded as an entry when blasting within fifteen feet of breaking through.

Length of
fuse.

(77) Except where fired electrically, no fuse shorter than three feet shall be used in any blasting operation, nor shall any fuse be lighted at a point closer than three feet from the capped end.

Interval
before return
to scene of
blast.

(78) (a) Except where firing has been done by means of electric current, no blaster or other person shall leave or be permitted to leave his place of refuge from the blast and return to the scene of any blast within the number of minutes which are equal to twice the number of feet in the longest fuse used in the blasting operation. This time shall be calculated from the time when the last shot is heard.

(b) Where the firing has been done by means of electric delay-action detonators and two or more shots have been fired, no blaster or other person shall leave or be permitted to leave his place of refuge and return to the scene of any blast within ten minutes of the time at which the blasting circuit is closed.

(c) In the case of a supposed misfire or missed hole in any blasting operation no blaster or other person shall leave or be permitted to leave his place of refuge and return to the scene of any blast within thirty minutes of the time he has reached his place of refuge after the lighting of the fuse or fuses or the closing of the blasting circuit.

Detonator
required.

(79) No hole shall be charged with explosives unless a properly prepared detonating agent be placed in such charge and shall be fired in its proper sequence in the firing of the round.

(80) (a) All holes which are charged with explosives in one loading operation shall be fired in one blasting operation. Firing required.

(b) Any hole or holes that have been charged with explosives, or any explosive charge that has been set shall not be left unfired but shall be fired at the time for blasting required by the approved practice of the mine.

(81) Where safety fuse is used in any blasting operation, Safety fuse.

(a) suitably capped fuses shall be supplied to the workmen in uniform, standard, safe lengths for the operation at hand;

(b) the uncapped ends of all fuses for use in a mine shall be suitably stained.

(82) In every case where more than one shot is to be fired the fuse connected to a charge of explosives shall be lighted with a suitably timed spitting device. Lighting fuses.

(83) Where more than one shot is fired no workman shall be permitted to conduct any blasting operation unless he is accompanied by one or more other workmen. Each workman shall carry a light unless the blasting operation is conducted on surface in daylight, or under artificial light. Number of men, lights.

(84) Before returning to the scene of any blasting operation every workman shall assure himself that sufficient air has been introduced into the working place to drive out or dilute to a safe degree the gases produced in the blasting operation. Ventilation of working places after blasting.

(85) Where blasting is done in any raise or stope proper precautions shall be taken to prevent closing of the means of entrance to the working place or interference with the effective circulation of air following the blast by the broken material produced by the blast. In the case of a single-compartment raise or box-hole where material from the blast may block the means of entrance proper precautions shall be taken to assure the adequate ventilation of the working place before workmen enter the same. Protection of entrance to working place.

(86) When a workman fires a round of holes he shall, where possible, count the number of shots exploding. If there is any report missing he shall report the same to the mine captain or shift boss. If a missed hole has not been fired at the end of a shift, that fact, together with the location of the hole, shall be reported by the mine captain or shift boss to the mine captain or shift boss in charge of the next relay of workmen going into that working place before work is commenced by them. Reporting of missed holes.

(87) Any charge which has missed fire shall not be withdrawn but shall be blasted at a proper time and without undue delay. Missed hole to be blasted.

Examination
of missed
or cut-off
hole.

(88) No development heading shall be abandoned or work therein discontinued until the material broken at the firing of the last round shall have been cleared from the face and the whole face of the heading examined for explosives in missed or cut-off holes.

Where elec-
tric blasting
required.

(89) (a) After the first ten feet of advance has been made in any shaft or winze and until such time as the permanent timbers and ladders have reached the level upon which blasting is being done all blasting in the shaft, winze, station or other workings being driven from the same shall be done by means of an electric current.

(b) In any raise, inclined at over fifty degrees from the horizontal, after twenty-five feet of advance has been made, or in any raise where free escape is not assured at all times, all blasting shall be done by means of an electric current.

Electric cur-
rent to be
disconnected
after
blasting.

(90) A workman shall not, where blasting is done by electricity, enter or allow other persons to enter the place or places where the charges have been fired until he has disconnected and short-circuited the firing cables or wires from the blasting machine or portable direct-current battery or has assured himself that the switch of the approved blasting switch is open, the firing cables or wires short-circuited and the blasting box locked.

Approved
firing
device.

(91) Unless permission in writing is first obtained from the Chief Inspector, with approval of the proposed arrangements necessary for special cases,

(a) when electricity from lighting or power cables is used for firing shots a fixed device of a design certified by the Electrical Inspector of Mines as meeting the requirements of rule 379 of this section shall be used;

(b) one such device shall be maintained for each individual working place in which firing is done by means of electricity from lighting or power cables.

Blasting by
direct cur-
rent or
blasting
machine.

(92) Where the source of current is a portable direct-current battery or a blasting machine the firing cables or wires shall not be connected to the source of current until immediately before they are required for firing the shots and shall be disconnected immediately after the connection has been made or the machine operated for firing the shots.

Lead wires
short-
circuited.

(93) The firing cables leading to the face shall be short-circuited while the leads from the blasting caps are being connected to each other and to the firing cables. This short circuit shall not be removed until the men have retreated from the face and it shall be so located that a premature explosion

would be harmless to the men opening the short circuit. The short circuit shall be replaced immediately after the cables have been disconnected from the blasting machine or the blasting switch has been opened.

(94) The firing cables' or wires used for firing shots at one working place shall not be used for firing shots in another working place until all proper precautions have been taken to ensure that such firing cables or wires have not any connection with the leads from the first working place. Firing cables.

(95) When firing cables or wires are used in the vicinity of power and lighting cables the blaster shall take proper precautions to prevent the firing cables or wires coming in contact with the lighting or power cables. Precautions in using firing cables.

Protection in Working Places, Shafts, Winzes, Raises, etc.

(96) Neither on surface nor underground shall workmen be employed in a location where men are working overhead unless such measures for protection be taken as the nature of the work permits. Protection from overhead operations.

(97) A protective hat, manufactured for such service, shall be worn by every person employed, Protective hat.

(a) underground in any mine;

(b) in any location in a pit or quarry designated by the Inspector.

(98) The top of every shaft shall be securely fenced or protected by a gate or guard rail, and every pit or opening dangerous by reason of its depth shall be securely fenced or otherwise protected. Fencing of shafts and other openings.

(99) (a) At all shaft and winze openings on the surface and on every level, unless securely closed off, the hoisting compartments shall be protected by a substantial gate which shall be kept closed except when the hoisting conveyance is being loaded or unloaded at such level. The clearance beneath any such gate shall be kept to a minimum. Gate at shaft entrances.

(b) Where haulage tracks lead up to any hoisting compartment on surface or underground the gate on such compartment shall be reinforced in such a manner that it shall be sufficiently strong to withstand any impact imparted thereto by collision therewith of any motor, train or car operated on such tracks.

(100) Every shaft and winze shall be properly timbered and during sinking operations the timbering shall be maintained within a safe distance of the bottom. In no case shall the distance exceed fifty feet. Shaft and winze timbering.

- (a) The guides, guide attachments and shaft timber shall be of sufficient strength and shall be suitably designed, installed and maintained so that the safety catches referred to in clause *d* of rule 231 of this section may grip the guides properly at any point in the shaft.

Protection
at shaft
stations.

(101) There shall be provided a safe passageway and standing room for workmen outside of the shaft at all mine workings opening into the shaft and the manway shall in all cases be directly connected with such openings.

Protection in
sinking
operations.

(102) (a) During shaft-sinking operations no work shall be done in any place in a shaft or winze while men are working in another part of the shaft or winze below such place unless the men working in the lower position be protected from the danger of falling material by a securely constructed covering extending over a sufficient portion of the shaft to afford complete protection.

(b) Open hooks shall not be used in conjunction with the suspension of any shaft staging.

(c) During shaft-sinking operations a set of doors to cover the sinking compartments shall be maintained at the collar or other point of service of every shaft or winze. Such doors shall be closed at all times that material is being loaded into or unloaded from a shaft conveyance at the point of service.

Lining
compartment-
ments at
levels.

(103) Except during sinking operations, if material be handled in any shaft or winze compartment there shall be maintained around that compartment, except on the side on which the material is to be loaded or unloaded, a substantial partition at the collar and at all levels. Such partition shall extend above the collar and all levels a distance not less than the height of the hoisting conveyance plus six feet and it shall extend below the collar and all levels at least six feet.

Counter-
weight com-
partment.

(104) Wherever a counterweight is used in a shaft or winze it shall operate in a separate and safely enclosed compartment.

Protection
on shaft
inspection.

(105) (a) No person shall do any work or conduct any examination in any compartment of a shaft or winze or in that part of the headframe used in conjunction therewith while hoisting operations other than those necessary for doing such work or conducting such examination are in progress in such compartment.

(b) No person shall do any work or conduct any examination in a shaft or winze or in that part of a headframe used in conjunction therewith unless he be adequately protected from

accidental contact with any moving hoisting conveyance or the danger of falling objects accidentally dislodged.

(106) Where the enclosing rocks are not safe every adit, tunnel, stope or other working in which work is being carried on or through which persons pass shall be securely cased, lined or timbered, or otherwise made secure. Timbering mine workings.

(107) Where a bucket is used in any shaft or winze for other than sinking purposes, Use of shaft buckets.

- (a) a set of doors as required by clause c of rule 139 of this section shall be required at the collar and every point of service of the shaft or winze;
- (b) a suitable landing device shall be used at every working level when the bucket is being loaded or unloaded at that level;
- (c) simultaneous operations shall not be carried on at more than one level until the style of structure and method of operation of any such device installed at intermediate levels has been submitted to and has received the approval of the Inspector.

(108) All raises inclined at over fifty degrees from the horizontal which are to be driven more than sixty feet slope distance shall be divided into at least two compartments one of which shall be maintained as a ladderway and shall be equipped with suitable ladders. The timbering shall be maintained within a safe distance of the face and in no event shall the distance between the face and the top of the timbering exceed twenty-five feet. Steeply inclined raises.

(109) Whenever, at any time, chutes are pulled where persons are working or may enter at the time of pulling the pulling area shall be marked by signs or the persons working in the vicinity shall be notified and as pulling proceeds proper precautions shall be taken to ascertain that the broken material is settling freely. When there is any indication of a hang up the location shall be adequately protected by suitable signs or barricades. Precautions as to broken material.

(110) Unless the entrance to a stope is capable of being used as such at all times a second means of entrance shall be provided and maintained. Access to stopes.

(111) The top of every mill hole, manway or other opening shall be kept covered or otherwise adequately protected. Guarding mill holes, manways, etc.

(112) Wherever men are working below a level in any place the top of which is open to the level in close proximity to any haulageway or travelway some person shall effectively Guarding open workings.

guard the opening unless the same is securely covered over or otherwise closed off from the haulageway or travelway.

Guarding
tops of
raises.

(113) The tops of all raises or other openings to a level shall be kept securely covered, fenced off, or protected by suitable barricades to prevent inadvertent access thereto.

Unused
workings
to be tested
for gas.

(114) (a) Underground workings which have been in disuse for some time shall be examined before being again used, in order to ascertain whether foul air or other dangerous gases have accumulated there, and only such workmen as may be necessary to make such examination shall be allowed to proceed to such places until such places are in fit state to work or travel in.

When in-
flammable
gas en-
countered
in mine.

(b) When an inflammable gas in dangerous concentrations has been found to exist in any mine working such workings or parts of such workings concerned shall immediately be considered as a Fire Hazard Area and every precaution shall be taken while clearing the area or doing any work therein to prevent ignition of the gas and these precautions shall be continued as long as the hazard exists.

Examination
of mine
workings.

(115) The owner, manager, or some authorized person or persons shall examine daily all parts of the mine where drilling and blasting is being carried on; shall examine at least once a week the other portions of a mine in which operations are being carried on, such as shafts, winzes, levels, stopes, drifts, crosscuts and raises, in order to ascertain that they are in a safe working condition; shall inspect and scale or cause to be inspected and scaled the roofs and walls of all stopes or other working places as often as the nature of the ground and of the work performed necessitates.

Shaft
inspection.

(116) The owner or manager of a mine where a hoist is in use shall depute some competent person or persons whose duty it shall be to make an inspection of the shaft at least once each week, and in addition a thorough examination shall be made at least once each month of the guides, timber, walls and hoisting compartments generally of the shaft and a record of such inspection and examination shall be made in the Shaft Inspection Record Book by the person making the examination.

Shaft Inspec-
tion Record
Book to be
kept.

(a) Such owner or manager shall keep or cause to be kept at the mine a book for each shaft termed the Shaft Inspection Record Book in which shall be recorded a report of every such examination as is referred to in this rule signed by the person making the examination.

(b) Such entries of examinations shall be read and initialled every week by the responsible person in charge of the maintenance of the shaft.

(c) A notation shall be made of any dangerous condition reported and the action taken regarding it over the signature of the responsible person in charge of the maintenance of the shaft.

(d) The Shaft Inspection Record Book shall be made available to the Inspector at all times.

(117) The owner or manager shall provide and maintain an adequate supply of properly dressed scaling bars and gads and other equipment necessary for scaling. Scaling bars and gads.

(118) The owner or manager shall, when necessary, provide life lines for the workmen and it shall be the duty of the workmen to continually wear such life lines at all times, when by so doing the interests of safety will be advanced. Life lines to be used.

(119) Every dusty place where work is being carried on in a mine shall be adequately supplied at all times with clean water under pressure or other approved appliances for laying the dust caused by drilling or blasting operations. Keeping water supply to lay dust.

(120) The times for blasting shall be so fixed that the workmen shall be exposed as little as practicable to dust and smoke. Time for blasting.

(121) Where there is non-continuous shift operation in mine areas the oncoming shift shall be warned of any abnormal condition affecting the safety of operations. Such warning shall consist of a written record over the signature of a responsible person on the off-going shift and shall be read and countersigned by the corresponding responsible person on the oncoming shift before workmen are permitted to resume operations in the areas indicated in such record. Written record.

(122) At every mine where persons are employed underground a suitable system shall be established and maintained to check in persons who have gone underground and check out such persons as having returned to surface and it shall be the duty of such persons to check in and check out in accordance with such system. Check-in, check-out systems.

(123) Where repair work is in progress in any manway or conditions arise that may endanger travel through such manway the manway shall be closed off or adequate signs designating the unfitness of such manway for travel purposes shall be posted at all entrances to such manway. Signs designating repair work.

(124) (a) Diamond-drill holes shall be plotted on all working plans of levels. Diamond-drill holes.

(b) When any active mine heading is advancing toward any diamond-drill hole the collar or the nearest points of inter-

section of such hole or both shall be securely closed off or guarded at all times that blasting is being done within fifteen feet of any possible intersection of such hole.

(c) The collar and any points of intersection of every diamond-drill hole, underground, shall be plainly marked at the time that drilling is discontinued or an intersection made. Such marking shall consist of a single capital letter "H" in yellow paint measuring twelve inches by twelve inches which shall be placed within four feet of such collar or intersection.

Ladderways

Ladderways
in shafts
and winzes.

(125) (a) A suitable footway or ladderway shall be provided in every shaft and winze.

(b) In shafts and winzes no ladder except an auxiliary ladder used in sinking operations shall be installed in a vertical position.

(c) During sinking operations, if a ladder be not maintained to the bottom, an auxiliary ladder which will reach from the permanent ladders to the bottom shall be provided in such convenient position that it may be promptly lowered to any point at which men are working.

(d) Wherever, about shafts and winzes and headframes used in conjunction therewith, it is necessary for persons to examine or inspect appliances installed therein suitable ladderways or stairways and platforms shall be maintained to permit such work being carried out in a safe manner.

Partition
between
manway and
hoisting
compart-
ments.

(126) The footway or ladderway in a shaft or winze shall be separated from the compartment or division of the shaft or winze in which material is hoisted by a suitable and tightly closed partition.

Ladderway
in shaft,
over
70 degrees;

(127) (a) In a shaft or winze inclined at over seventy degrees from the horizontal or in a headframe used in conjunction with such shaft or winze substantial platforms shall be built at intervals not exceeding twenty-one feet in the ladderway, and the same shall be covered except for an opening large enough to permit the passage of a man's body, and the ladders shall be so placed as to cover this opening in the platform.

under
70 degrees.

(b) In a shaft or winze inclined at less than seventy degrees from the horizontal or in a headframe used in conjunction with such shaft or winze the ladders may be continuous, but substantial platforms shall be built at intervals not exceeding twenty-one feet in the ladderway, and the same shall be covered except for an opening large enough to permit the passage of a man's body.

(128) (a) Stairways may be used in a shaft or winze inclined at less than fifty degrees from the horizontal. When stairway permissible.

(b) All stairways in shafts and winzes shall be equipped with a suitably-placed hand-rail. Hand-rail.

(129) (a) All ladderways in raises, stopes and other man-ways of a mine shall be installed and maintained in a workman-like manner to reduce to a minimum the hazard of a man falling therefrom. Ladderways, other mine workings.

(b) A landing platform shall be installed at all points where ladders are off-set.

(130) Wire rope or strands of wire rope shall not be used or be allowed to be used for climbing purposes in any mine if they are frayed or have projecting broken wires. Wire rope ladders.

(131) Every ladder shall project at least three feet above its platform, except where strong hand-rails are provided. Hand-rails for ladders.

Ladders

(132) (a) Every ladder used at a mine shall be of strong construction, shall be securely placed and shall be maintained in good repair. Ladders.

(b) The distance between centres of rungs of ladders shall not be greater than twelve inches or less than ten inches and the spacing of rungs shall not vary more than one-half inch in any particular ladderway.

(c) In order to give a proper foothold the rungs shall in no case be closer than four inches from the wall of a shaft, winze, or raise, or any timber underneath the ladder.

Shaft Hoisting Practice

(133) Where steel, timber or other material is being raised or lowered in any shaft conveyance such material shall be loaded in such a manner as to prevent it from shifting its position, and if necessary it shall be secured to the conveyance. When such material projects above the sides of the conveyance it shall be securely fastened to the conveyance or lashed to the hoisting rope in such a manner as not to damage the rope. Raising and lowering material.

(134) When a crosshead is not used in any vertical shaft or winze the compartment in which the bucket works shall be closely lined with sized lumber. Compartment to be lined when crosshead not used.

(135) In a shaft or winze, in the course of sinking, the bucket or skip shall be filled only in such a manner that no piece of loose rock shall project above the level of the brim. Level of load in sinking bucket or skip.

Lowering
men after
blast.

(136) (a) During sinking operations in any shaft or winze the bucket or skip used for returning men to the working place following any blasting operation shall not be lowered on the initial trip beyond the point where, owing to the blast, it may be unsafe to go without a careful examination and in no case shall the point be less than fifty feet above the blasting set or bulkhead.

(b) The bucket or skip shall be lowered from such point only on signal from the men accompanying the same and at such speed as to be fully under control, by signal, of such men.

(c) Only sufficient men shall be carried on such trip as are required to properly conduct a careful examination of the shaft or winze.

Bucket or
skip not to
be lowered
directly to
face.

(137) In a shaft or winze, in the course of sinking, the bucket or skip shall not be lowered directly to the bottom but shall be held at least fifteen feet above and shall remain there until a separate signal to lower the same has been given by a properly authorized person.

Bucket to be
steadied.

(138) No bucket shall be allowed to leave the top or bottom of any shaft or winze until the workman in charge thereof has steadied it or caused it to be steadied.

Protection
from dump-
ing.

(139) (a) In a shaft or winze, in the course of sinking, adequate provision shall be made and maintained to assure the impossibility of the bucket or skip being dumped while the dumping doors are open or other means applied to prevent spillage falling into the shaft or winze.

(b) The design of any device for this purpose shall be submitted for the approval of the Mechanical Inspector before such device is installed.

(c) A door or doors to cover the sinking compartments shall be maintained at the collar of every shaft or winze while sinking is in progress. Such door or doors shall be kept closed at all times that tools or material are being loaded into or unloaded from the bucket or skip at the collar of the shaft, except when the bucket or skip is unloaded by dumping arrangements as provided in clauses *a* and *b* of this rule.

Cage or skip
for hand-
ling men.

(140) Except during sinking operations, whenever a mine shaft or winze exceeds three hundred feet in vertical depth a suitable cage or skip, equipped as required by rule 231 of this section, shall be provided for lowering or raising men in the shaft or winze.

Cage doors
to be closed.

(141) (a) No person shall travel or be permitted to travel in a cage at any time except during shaft inspection unless the doors of the same are securely closed.

(b) The cage doors shall not be opened until a full stop has been made at the point or station signalled for, except during trips of inspection, provided that in the case of an inadvertent stop at any point in the shaft or winze other than a station, the cage doors may be opened and the men may leave the same on instructions to do so by a properly authorized person.

(142) (a) When chairs are used for the purpose of landing a shaft conveyance at any point in a shaft or winze, except when hoisting in balance from that point, such chairs shall not be put into operation unless the proper chairing signal has been given to the hoistman. Operation of chairs.

(b) Chairs shall not be used when men are handled.

(143) No person shall travel or be permitted to travel in a bucket, cage or skip operated by a hoist which is being simultaneously used for the hoisting of mineral or material, except as provided for in clause c of rule 144. Hoisting men and material simultaneously.

(144) No person shall be lowered or hoisted or allow himself to be lowered or hoisted in a shaft, winze or other underground opening of a mine, When persons not to be hoisted,

(a) in a bucket or skip, except that men employed in shaft sinking will be allowed to ascend and descend to and from the sinking deck or other place of safety and that men employed in shaft inspection and maintenance may be hoisted and lowered in the shaft by means of such conveyances; in buckets or skips,

(b) in a cage or skip which does not meet the requirements of rules 230, 231 and 233, except as provided for in clause a of this rule or rule 232; when safety appliances not used,

(c) in a cage, skip or bucket that is loaded with powder, steel, timber or other materials or equipment, except when the presence of such person is necessary for the purpose of handling the same; when loaded,

(d) in a cage, skip or bucket carrying powder, steel, equipment or material, unless the same is adequately secured. Nothing in this clause shall prohibit men from carrying personal hand tools or equipment approved by the District Inspector in a conveyance, provided that the same are properly protected with guards and the conveyance is not overcrowded; unless material secured,

(e) except during shaft-sinking operations or shaft inspection and maintenance operations, in any shaft conveyance, unless such shaft conveyance is in charge of a person properly authorized to act as cagetender or skiptender. conveyance in charge of authorized persons.

Use of conveyance if drum unclutched.

(145) No person shall enter or be allowed to enter a shaft conveyance or work upon or under a shaft conveyance when the corresponding drum of the hoist is unclutched, unless such conveyance is first secured in position by chairing or blocking, except that this shall not apply to shaft sinking.

Permissible loading of shaft conveyance.

(146) For the purpose of this rule "authorized maximum load of men" means the total weight of men permitted by the District Inspector to ride at any time in the shaft conveyance. "Maximum allowable weight" means the maximum weight permitted by this Act to be attached to the rope in service or the maximum weight attached to the rope that the hoist is capable of handling, whichever is the lesser. The weight the hoist is capable of handling shall be that set out in the manufacturer's specifications or approved by an independent competent mine hoist design engineer.

(a) In case a hoisting rope is used for the raising and lowering of both men and materials, the weight attached to the rope in the former case, when the bucket, cage or skip is bearing its authorized maximum load of men, shall not exceed eighty-five per cent of the maximum allowable weight when the rope is in use for other purposes; and the owner or manager shall obtain from the District Inspector of Mines resident in the district a certificate in writing setting out the maximum loads of both men and materials which may be carried in the shaft conveyance before men are so carried.

(b) The District Inspector of Mines may issue the certificate referred to in clause *a* if he is satisfied that the hoisting installation and signalling equipment meet the requirements of this Act.

Signals

Signal system.

(147) Every working shaft shall be provided with some suitable means of communicating by distinct and definite signals to the hoist room from the bottom of the shaft, from every working level, from the collar and from every landing deck.

Separate signal for each compartment.

(148) A separate, audible signal system shall be installed for the control of each hoisting conveyance operated from a single hoist and there shall be a sufficient difference in the signals to the hoistman that they are easily distinguishable.

Return signal.

(149) Where an electrical signal system is installed the hoistman shall return the signal to the person giving the signal when men are about to be hoisted or lowered.

(150) No device for signalling to or communicating with the hoistman shall be installed or operated in or on any shaft conveyance without the written permission of the Chief Inspector. Special devices, permission for.

(151) No cage call system communicating with the hoist room shall be installed or used at any shaft or winze. Cage call system.

(152) (a) The following code of signals shall be used at every mine and a copy of such code shall be printed and kept posted in every hoist room and at every level or other recognized landing place in every working shaft or winze: Code of signals.

1 bell Stop immediately—if in motion (Executive Signal).

1 bell Hoist (Executive Signal).

2 bells Lower (Executive Signal).

3 bells Men about to ascend or descend (Cautionary Signal). This signal shall be given by the cagetender before men are permitted to enter the hoisting conveyance. It shall also be given in case a stop has been made at a level and men on the conveyance are to be raised or lowered to another level. Where a return-bell signal system is installed the hoistman shall return the 3-bell signal before men are permitted to enter the conveyance or are raised or lowered.

4 bells Blasting Signal. Hoistman shall answer by raising the bucket, cage or skip a few feet and letting it back slowly. Following a 4-bell signal only a 1-bell signal shall be required to signal for hoisting men away from a blast and the hoistman shall remain at the controls until the act of hoisting has been completed.

5 bells Release Signal (Release and Executive Signal). The hoistman may act at his own discretion to perform any movement, or series of movements, involving the conveyance or conveyances designated by the directionary signals referred to in clauses *a* and *b* of rule 154. Where a return-signal system is installed the hoistman shall return the signals and may then act at his own discretion. On the completion of the necessary movements he shall not move the hoist again until he has received a new signal.

9 bells Danger Signal (Special Cautionary and Executive Signal). To be given only in case of fire or other danger. The signal for the level at which the danger exists should be given following the giving of the danger signal.

The following method and order shall be observed in giving signals:

1. Strokes on the bell shall be made at regular intervals.
2. Signals shall be given in the order designated: 1st, cautionary signals; 2nd, directionary signals; 3rd, executive signals.

(b) The hoistman shall not move the hoisting conveyance within a period of ten seconds after receiving a signal designating a movement at any time that men are carried. In case he is unable to act within one minute of the time he has received any complete signal he shall not move the hoisting conveyance until he has again received another complete signal.

(c) After a hoistman has received a 3-bell signal he shall remain at the hoist controls until he has received the signal designating the movement required and has completed that movement. After he has commenced the movement he shall complete it without interruption, unless he receives a stop signal or in case of great emergency.

Hoistman
to remain
at controls.

(153) (a) The hoistman shall remain at the hoist controls at all times the hoist is in motion.

(b) Except in case of emergency, no one shall speak to the hoistman while the hoist is in motion and a sign to this effect plainly visible to anyone approaching the hoist controls shall be kept posted at all times.

Special
signals.

(154) (a) At every mine other signals termed directionary signals in conjunction with the code referred to in clause *a* of rule 152 shall be used to designate all regular stopping points. Special signals shall be used to designate all special hoisting movements. All such signals shall be easily distinguishable from the foregoing code and shall not interfere with it in any way and shall be approved by the Chief Inspector.

(b) Such directionary signals and other special signals approved for use at every mine and an adequate description of their application to the movements required shall be posted at every hoist, at the top of the shaft or winze and at every working level of such shaft or winze.

Signal
required.

(155) Under no circumstances shall the hoisting conveyance be moved by the hoistman until he has received a proper

signal, except that in event of an inadvertent stop at some point in the shaft or winze other than at a station from which a signal may be given the hoistman may move the conveyance when he has assured himself that the hoist controls are in proper working order and when hoisting or lowering men he has received instruction from a properly authorized person.

(156) No person, unless duly authorized, shall give any signal for moving or stopping the bucket, cage or skip. No signal shall be given unless the bucket, cage or skip is at the level from which the signal is to be given. No unauthorized person shall give any signal, other than the danger signal, or in any way whatsoever interfere with the signalling arrangements. Only authorized person to give signal.

(157) (a) A notice showing clearly the number of persons allowed to ride on and the weight of materials allowed to be loaded on the conveyance, as referred to in clause *a* of rule 146, shall be posted and maintained at the collar of the shaft or winze. Notice to be posted.

(b) The person authorized to give signals will be held responsible for observance of such notice.

(158) (a) When persons are being hoisted or lowered in any cage or skip no person other than the cagetender or skip-tender shall have a burning open-flame lamp of any kind except that for shaft inspection or similar purposes a sufficient number of lighted lamps shall be permitted. Open lights, discipline.

(b) At all times that men are being hoisted or lowered in any cage or skip there shall be maintained a proper discipline of persons riding on such cage or skip.

(c) No person shall offer obstruction to the enforcement of the requirements re loading on conveyances, as provided for by clause *a* of rule 157, or to this rule.

Haulage

(159) (a) The whistle, bell, gong or horn with which a locomotive engine, trolley or motor car is equipped shall be sounded when starting and at such other times as warning of danger is required. Warning equipment.

(b) In mechanical haulage underground a suitable tail-light shall be used in conjunction with made-up trains.

(160) No person shall ride upon or against any car in any level, drift or tunnel in or about a mine. In mechanical haulage this shall not apply to train crews or to persons being transported on approved passenger cars especially provided for that purpose during special trips for men only. Riding on cars, etc.

Clearance. (161) On every level on which mechanical haulage is employed a clearance of at least eighteen inches shall be maintained between the sides of the level and the cars, or there shall be a clearance of twenty-four inches on one side, or safety stations shall be cut every one hundred feet. Such safety stations shall be plainly marked.

Unattended locomotive. (162) No electric haulage locomotive shall be left standing unattended unless the brakes have been set and the control lever placed in the neutral position. In the case of a storage-battery haulage locomotive the main switch shall also be placed in a non-operating position.

Protection from Machinery

Fly-wheel, geared-wheel, etc. (163) Every fly-wheel, geared-wheel, bull-wheel, pulley or belt, and every opening through which any wheel or belt operates shall be enclosed with a substantial railing or casing, unless situated in such a manner or location as to prevent any person coming into accidental contact therewith.

Uneven projections to be covered. (164) Every key, bolt, set-screw, and every part of any wheel or other revolving machinery which projects unevenly from the surface shall be covered, unless situated in such a manner or location as to prevent any person coming into accidental contact therewith.

Grinding wheels to be guarded. (165) Every power-driven grinding wheel shall be provided with a hooded guard of sufficient strength to withstand the shock of a bursting wheel. This guard shall be adjusted close to the wheel and extended forward, over the top of the wheel, to a point at least thirty degrees beyond a vertical line drawn through the centre of the wheel.

Wearing loose clothing. (166) Persons engaged in dangerous proximity to moving machinery shall not wear or be allowed to wear loose outer clothing.

Runway to have hand-railing. (167) Every runway or staging more than five feet from the floor and used for oiling or other purposes shall be provided with a hand-railing.

Protection of entrance. (168) Every entrance to any elevator, hatchway, or well-hole shall be provided with a suitable trap-door, guard-rail, or automatically closing gate.

Counter-weights. (169) Every counterweight shall be so situated or guarded that injury to any person would not be probable should it become detached from its fastenings.

Frogs on tracks. (170) Every switch in a track either above or below ground on which cars are moved by mechanical power shall have the

frog provided with a guard-block of wood or iron if its construction is not such that the hazard of a man's catching his foot in it is reduced to a minimum.

(171) Under no circumstances shall any person ride on any conveyor or belt. Belts, conveyors.

Clay, Sand and Gravel Pits and Quarries

(172) In workings of clay, sand, and gravel or other types of Undermining forbidden. unconsolidated material the method of removing material by undermining shall not be allowed. No working place shall have a vertical height of more than ten feet, unless the material is at a suitable angle to ensure safety. Where the thickness of the material exceeds ten feet in vertical depth, the work shall be done in terraces or at a suitable angle to ensure safety. These rules shall not apply where the material is excavated and loaded solely by suitable mechanical equipment which does not expose the operator of such equipment to danger or which does not necessitate workmen working in a hazardous position at the toe of the face.

(173) Unless permission in writing is first obtained from the Chief Inspector, all open cut (cast) operations (workings) Height of face. over sixty-five feet in depth shall be worked in benches not more than sixty-five feet high; due precautions shall be taken to maintain the walls and benches in a safe working condition and no working face shall be advanced by undercutting, except where a tunnelling method is used. These rules shall not apply where men do not work below the bench or where broken material is loaded solely by suitable mechanical devices.

(174) In all open pit workings all unconsolidated materials Stripping overburden. such as clay, earth, sand, gravel and loose rock lying within six feet from the rim of the pit shall be removed. Beyond this strip all overburden shall be sloped to an angle less than its natural angle of repose.

(175) No person shall be permitted to work near the pit wall until such wall has been examined by the pit foreman Examination of wall. in charge of the crew. If the wall is found unsafe he shall have all hazards removed before permitting any other work.

(176) It shall be the duty of each man engaged in work on the wall of the pit at such operations as barring loose material, scaling and cleaning to continually wear a life line. This life line shall be securely snubbed above the working place and shall be under the supervision of a snubtender, or the line may be held taut by one or more fellow workmen. Snubbing of life lines.

(177) No person shall be hoisted or allow himself to be hoisted or lowered by means of any hoist or derrick at a pit Regular hoisting of men prohibited.

or quarry unless permission is first obtained in writing from the Chief Inspector. Under no circumstances shall any person ride on any conveyor or belt.

Signalman
to clear
area.

(178) Where a load is being hoisted or lowered by means of a hoist or derrick at a pit or quarry the signalman shall notify all persons in the vicinity to retire to a place of safety until the load has cleared the danger zone.

Derail at
top of
incline.

(179) An effective block automatic derail or safety switch shall be provided at the top of each inclined place to prevent cars accidentally running down. Such installation, however, is not required where the skip or car remains on the hoisting cable.

Track
condition.

(180) All tracks shall be maintained in good working condition.

Hoisting
signals.

(181) Unless the movement of the hoisting conveyance is visible to the hoistman at all times, a suitable signal system shall be installed and maintained and suitable signals, approved by the Inspector, shall be used.

Travelling
ways.

(182) (a) At every pit or quarry there shall be provided and maintained in good working condition a suitable travelling way leading from the working level of the pit or quarry to the surface.

(b) Where the travelling way is inclined at more than thirty degrees and less than fifty degrees to the horizontal stairways or ladders shall be provided.

(c) All stairways shall be equipped with substantial and suitably placed hand-rails.

(d) Where the travelling way is inclined at more than fifty degrees to the horizontal ladders shall be used. Substantial platforms shall be built at intervals not exceeding twenty-one feet in the ladderway and at all places where the ladders are offset.

(e) No ladder shall be installed at an inclination of more than seventy degrees to the horizontal.

Safe working
conditions
about
machinery.

(183) Adequate lighting, safe footing and sufficient room shall be provided for all workmen who are required to work near or about machinery.

Crushing Plants, Mills and Metallurgical Works

Antidotes
and washes.

(184) At every mine or works where poisonous or dangerous compounds, solutions or gases are used or produced there shall be kept in a conspicuous place, as near the same as practicable,

a sufficient supply of satisfactory antidotes and washes for treating injuries received from such compounds, solutions or gases. Such antidotes and washes shall be properly labelled and explicit directions for their use affixed to the boxes containing them.

(185) In every mill or plant where, by reason of dry crushing or otherwise, there is in the air of the building dust in quantity to be injurious to health suitable apparatus shall be installed for its removal. Removal of dust.

(186) In every mill or plant where poisonous vapours or gases exist or may be formed suitable means shall be adopted to provide such ventilation as will prevent the formation of dangerous concentrations of the same. Poisonous vapours.

(187) Due provisions shall be made at all plants where acids or poisonous compounds are used to reduce to a minimum the hazards of storing and handling such materials. Storage of acids, poisons.

(188) The transfer of liquids from one location or container to another location or container by the application of air under pressure shall not be permitted, except where properly designed and tested equipment is used for this purpose. Transfer of liquids by compressed air.

(189) No person shall enter or be allowed to enter any storage bin from which material is drawn off at the bottom while material is stored therein, unless a second person is in constant attendance and suitable precautions are taken against the danger of caving material. The owner or manager shall, when necessary, provide life lines for the workmen and it shall be the duty of the workmen to continually wear such life lines when, by so doing, the interests of safety are advanced. Life lines for work in bins.

(190) Where, in the opinion of the inspector, the use of working platforms in or at bins is deemed advisable, they shall be provided, used, and maintained in a safe working condition. Bin platforms.

(191) Guard-rails shall be placed at the approach to tracks on surface where mechanical haulage is used, where the view of such tracks is obstructed in one or both directions. Where restricted clearances make the use of guard-rails impractical, in the opinion of the Inspector, he may permit such guard-rails to be omitted, but shall require that there shall be installed at such track approaches a suitable type of warning signal which will automatically give adequate audible and visible warning at all times of the approach of the conveyance, or that a switchman shall walk ahead of the leading conveyance on the track when the conveyance is in dangerous proximity to the area requiring guarding and stand guard at such approaches. Guard-rails at track approaches.

Shields for
protection
against
burning.

(192) Workmen employed at metallurgical works shall be supplied with suitable shields and appliances to protect them as far as possible against being burned with molten metal or other material. It shall be the duty of all workmen to use such shields and appliances.

Inspection
of stock pile.

(193) Before any person or persons are allowed to work on stock piles of ore, limestone, coke or other material the stock piles shall be inspected by some authorized person whose duty it shall be to see that they are in a safe working condition.

Age, elevator
and crane
operators.

(194) No person under the age of eighteen years shall be allowed to operate any elevator or power-driven crane.

Riding
prohibited.

(195) No person other than the operator shall be permitted to ride on any crane or part thereof or on any material carried by such crane, except for inspection, supervision, maintenance and repair, or instruction of a new operator.

Scale cars.

(196) Each scale car shall be provided with an audible warning alarm which shall be sounded by the operator each time a car is started, or each car shall be equipped with an automatic mechanical warning alarm which will sound when the car is moved.

Examination
of moulds,
etc.

(197) Every ladle or slag pot shall be examined before molten material is placed therein. Every effort shall be made to prevent molten material from coming in accidental contact with cold, damp or rusty surfaces where such contact may cause an explosion.

Filling of
moulds, etc.

(198) When molten material is transported by mechanical means in ladles or slag pots and the safety of persons may be endangered from splashing, every effort shall be made to ensure that such ladles or slag pots are not filled above a point four inches from the top of the vessel. If this limit is exceeded such ladle or slag pot shall not be moved until the foreman or other responsible person has warned the workmen required to handle such ladle or slag pot of this condition and has warned all persons in the vicinity.

Warning
devices.

(199) Every crane operated from a cab mounted on the crane shall be equipped with a whistle, bell, gong or horn which shall be sounded at such times as it may be necessary to give warning of the approach of the crane to places where men are working or are liable to pass.

Overwind
devices.

(200) Every crane shall be equipped with suitable devices to prevent overwinding.

Daily
examination
of cranes.

(201) The owner or manager shall depute some qualified person or persons to examine daily such parts of the crane or apparatus pertaining thereto upon the proper working of which

the safety of persons depends. A record of such examination shall be kept, signed by the person making the examination and such record shall be available to the Inspector at all times.

(202) Every entrance to a hoistway shall be provided with a substantial door or doors or gate or gates at least five feet six inches in height. All folding gates over three feet wide shall have top, bottom and centre braces.

(203) Every gate or door opening to an elevator hoistway shall be so controlled by an interlocking device that the elevator cannot be moved unless the door or gate is properly closed and that the door or gate cannot be opened unless the elevator car is in the proper landing position at the floor or landing place.

(204) Every hoistway landing place shall be adequately lighted.

(205) When a hoistway is not enclosed in walls, access to the hoistway by means of an adjacent stairway shall be prevented by means of a partition to a height of at least six feet.

(206) All guide rails for cars and counterweights shall be of substantial construction, and shall be securely fastened to the sides of the hoistway, and the bottom ends shall rest on a secure foundation, and be firmly fixed in that position.

(207) At every elevator, other than an approved automatically-controlled passenger elevator, a clear space of not less than three feet shall be provided between the bottom of the hoistway and the lowest point of the car when the car is at its lowest landing, and between the top of the car and the sheave when the car is at its top landing, and also between the top of the counterweight and the sheave when the car is at its lowest landing.

(208) Every elevator shall be provided with automatic devices at the top and bottom of the travel of a car in the hoistway, so arranged that the car will be stopped before it has travelled two feet above the top landing, or two feet below the bottom landing, and all drum hoists shall, in addition, be fitted with automatic stop motions to prevent overwinding.

(209) All counterweights shall have their sections strongly bolted together and shall be so situated that they cannot fall on any part of the elevator or machinery, and shall be suspended in guides in such a manner that they will run freely without danger of being detached.

(210) Every elevator on which any person travels shall be provided with side casing, and shall have a door or doors

extending at least five feet above the bottom of the elevator, and the top shall be covered with suitable protective roofing.

Safety catches.

(211) Every elevator on which any person travels shall be provided with efficient safety catches capable of holding the elevator and the maximum load in any position in the hoistway. When the safety catches are operated through shafts all the levers and safety catches shall be keyed to the shafts.

Signalling devices.

(212) For every elevator on which any person travels, other than an elevator equipped with approved controls for automatic operation, there shall be provided at every floor or landing place suitable devices to signal to the elevator car operator.

Side clearance.

(213) Where mechanical haulage is used on surface and the clearance between the sides of conveyances on parallel tracks or between the sides of conveyances and the side of any building or other structure is less than eighteen inches, such location shall be plainly marked showing the danger.

Overhead clearance.

(214) At the approach to overhead bridges, pipe lines, or similar structure on a standard-gauge railway track, where the clearance is less than six feet between the top of any railway car and the underside of the structure, a "low bridge" warning device shall be installed.

Life lines.

(215) Life lines and belts in good order shall be provided and kept in some secure and readily accessible place for immediate use in case it becomes necessary to rescue a workman from the top rigging, and also for use by any workman whose duties require him to work in an atmosphere which is liable to become dangerous by reason of the presence of noxious gases.

Blast Furnaces

Ventilation.

(216) At all furnaces of the hand-filled type the room at the furnace top where workmen are engaged shall be adequately ventilated, and there shall be provided and maintained in good order a stairway equipped with hand-rail, from the top of the furnace to the ground level below, affording a safe means of exit in case of danger from any cause.

Protecting workmen.

(217) Whenever it becomes necessary for a workman or workmen to go above the casting floor he or they shall notify the foreman or other responsible persons, who shall see that there is always a workman in attendance whose duty it shall be to remain outside the gaseous area and act as a watcher and give the alarm to the casthouse or stockhouse and render every possible assistance in case of gassing or other danger.

(218) All bustle pipes shall be provided with safe working platforms equipped with hand-rails at least three feet six inches in height, and wherever practicable the platform shall not rest directly on the bustle pipe, but shall be supported on angle bars, so that the floor plate will not become sufficiently hot to cause burns to a workman falling on it. Access to the platform shall be by stairway provided with hand-rails. Protection from bustle pipes.

(219) A suitable line of communication by telephone, gong or other mechanical means shall be maintained between the furnace top and all other dangerous places, and the casthouse, skip operator's room, or other place where workmen are continuously on duty. Line of communication.

(220) A suitable ladderway or stairway shall be provided from the foundation to the top of the furnace. Stairways and ladderways.

(221) Unless an approved type of elevator is provided as a means of travel to the furnace top, stairways shall be installed at an angle not greater than fifty degrees from the horizontal and shall be provided with landings or turnouts at intervals of not more than twenty-five feet, measured on the slope, so that it will not be possible for a workman to fall from the top to the foundation below. Stairways protected.

(222) Every foreman shall personally supervise or appoint a competent assistant to supervise any work around the furnace involving unusual accident hazard, such as work in gas mains or cleaners, tearing out linings, work in the casthouse, about the stoves when blowing in or blowing out, and any work about the bells or stock line. He shall also, when the furnace is known to be hanging and liable to slip, see that no workman is allowed on top for any purpose. Supervision of hazardous work.

(223) When ore becomes frozen or jammed in the furnace hopper or bell and workmen are required to bar the same into the furnace, a suitable guard-rail shall be provided to prevent workmen slipping on to the bell. Protection around bell.

(224) There shall be maintained at all blast furnaces and in other metallurgical works when the atmosphere may contain dangerous concentrations of poisonous gases or vapours, in readily accessible places, breathing apparatus and portable resuscitating apparatus of approved type, with an adequate supply of material for the proper operation of such apparatus. There shall also be on duty in each working shift a person or persons appointed by the superintendent and trained in the use of breathing and resuscitating apparatus. Rescue apparatus.

Steam, Compressed Air

(225) (a) Every steam boiler used for generating steam in or about a mine shall, whether separate or one of a range, Steam boilers.

- (i) have attached to it a proper safety-valve, and also a proper steam-gauge and water-gauge, to show respectively the pressure of steam and the height of water in each boiler,
- (ii) be inspected by an Ontario Government boiler inspector or by an inspector of a boiler insurance company at least once in every twelve months; and a certified copy of the report of the inspection shall be forwarded to the Chief Inspector.

(b) The certificate of inspection shall be kept posted in the boiler room at all times.

Main-
tenance.

(226) Every such boiler, safety-valve, steam-gauge and water-gauge shall be maintained in proper working condition.

Air
receivers.

(227) (a) Every air receiver installed at the surface of a mine shall be inspected by an Ontario Government boiler inspector or by an inspector of a boiler insurance company at least once in every twelve months, and a certified copy of the report of the inspection shall be forwarded to the Chief Inspector.

(b) The certificate of inspection shall be kept posted in the compressor room at all times.

MECHANICAL RULES

Sinking Equipment

When
crosshead
required.

(228) (a) After a depth of three hundred feet below the sheave has been attained in the sinking of any vertical shaft or winze a suitable bucket and crosshead, as referred to in clause b of this rule and rule 229, shall be used.

(b) When a closed type of crosshead is not used the bucket shall be barrel-shaped and shall be suspended by the upper rim.

Safety
appliance on
crosshead.

(229) (a) All sinking crossheads shall be provided with a safety appliance of a design approved by the Mechanical Inspector for attaching the bucket to the crosshead, so constructed that the crosshead cannot stick in the hoisting compartment without also stopping the bucket.

(b) All crossheads shall be of a design approved by the Inspector.

Shaft Conveyance Construction and Operation

Protection
from contact
with tim-
bering, etc.

(230) No cage or skip shall be used for the raising or lowering of persons unless it is so constructed as to prevent any portion

of the body of any person riding therein from accidentally coming into contact with the timbering or sides of the shaft or winze. Doors shall be so fitted that they cannot be accidentally opened.

(231) All cages or skips for lowering or raising men shall be constructed as follows: Construction of cages and skips.

- (a) The hood shall be made of steel plate not less than Hood. three-sixteenths of an inch in thickness or of a material of equivalent strength.
- (b) The cage shall be provided with sheet-iron or steel Casing. side casing not less than one-eighth of an inch in thickness or of a material of equivalent strength, and such casing shall extend to a height not less than five feet above the floor of the cage.
- (c) The cage shall be equipped with doors made of suitable material, which shall extend to a height not less than five feet above the floor and be so arranged that it will be impossible for the doors to open outward from the cage. Doors.
- (d) (i) The safety catches and mechanism shall be of sufficient strength to hold the shaft conveyance with its maximum load at any point in the shaft and shall be of a type the design and performance of which are approved by the Chief Inspector. Such approval shall not be considered until the safety catches and mechanism shall be found to function satisfactorily under load conditions during such number of tests as may be required by the Chief Inspector, each test to consist of suddenly releasing the shaft conveyance in some suitable manner under maximum loading conditions for persons so that the safety catches shall have the opportunity to grip the guides when the conveyance is descending at maximum hoisting speed. A report of such tests and drawings of the safety catches and mechanism shall be sent in duplicate to the Chief Inspector, who may require such further information or tests as he deems necessary.
- (ii) Before any shaft conveyance equipped with approved type safety catches and mechanism is first used for the purpose of lowering or hoisting men, the safety catches and mechanism shall be found to function efficiently according

to the requirements of the Mechanical Inspector during a test under the same conditions as set out in subclause i of clause *d* of this rule, and a permit for the use of the conveyance for hoisting and lowering men shall be obtained from the District Inspector. A notation of such test shall be entered in the Hoisting Machinery Record Book and two copies of the report shall be sent to the District Inspector.

- (iii) Any shaft conveyance previously permitted for use by the District Inspector for the purpose of lowering or hoisting men, on which alterations or repairs to the safety catch mechanism necessary to rectify any distortion of the mechanism from its proven satisfactory position are made, shall not be put to such use until the safety catch and mechanism shall have been found to function efficiently according to the requirements of the Mechanical Inspector during a test made under the same conditions as set out in subclause i of clause *d* of this rule and the District Inspector shall have again issued permission for the use of such conveyance for such purpose. A notation of such test shall be entered in the Hoisting Machinery Record Book and two copies of the report shall be sent to the District Inspector.

Hoisting
without
safety
catches.

- (232) The Chief Inspector may give permission in writing for hoisting men without safety catches if he is satisfied that the equipment and conditions are such that a maximum of safety is provided.

Operating
chairs by
lever.

- (233) The cage shall not have chairs attached thereto which are operated by a lever or a chain through or from the floor of the cage.

Automatic
operation
of chairs.

- (234) When chairs are used for the purpose of landing a shaft conveyance at any point in a shaft or winze, other than at the lowest point of travel for a skip, they shall be so arranged that they automatically fall clear and remain clear of the hoisting compartment when the cage or other conveyance is lifted off.

Bales,
safety
latches, etc.

- (235) The bucket and any device such as the bale, safety latch or other attachment to the bucket shall be of a design approved by the Chief Inspector.

Hoisting Procedure

Hoisting
after
stoppages.

- (236) After every stoppage of hoisting for repairs and after any stoppage for any other purpose which shall exceed two

hours duration no person shall be raised or lowered until the cage or skip has made one complete trip up and down the working portion of the shaft. The hoistman shall record all such stoppages and trips in the Hoistman's Log Book.

(237) Where a hoist is equipped with an auxiliary overwind device for preventing men from being hoisted to the dumping position in skips or in skips of skip-cage assemblies, as required in rule 368, the hoistman shall place such device in operation or assure himself that such device is in operation at all times that men are handled. Auxiliary overwind.

(238) Where obstructions such as those referred to in clause *c* of rule 367 may exist, the hoistman shall not hoist or lower the shaft conveyance, without proper authority. Obstructions.

(239) All overwind and underwind devices shall be tested at least once during every twenty-four hours and a record of such test shall be posted immediately in the Hoistman's Log Book. Testing overwind devices.

(240) The operator of a hoist shall, after going on shift and before a conveyance is raised or lowered, assure himself that the brake or brakes are in proper condition to hold the loads suspended on the corresponding drum or drums, by testing the brakes of the drums against the normal starting power of the engine or in the case of an electric hoist against the normal starting current. He shall not unclutch a drum of the hoist until such test has been made. Brakes to be tested.

(241) When a hoist is fitted with a friction clutch the operator shall, after going on shift and before a conveyance is raised or lowered, test the holding power of the clutch, the brake of the corresponding drum being kept on, the brake of the other drum being kept off. In case of a steam or air hoist the test shall be made against the normal starting power of the engine, and in the case of an electric hoist against the normal starting current. Friction clutches.

(242) When the drum of a hoist is unclutched, the brake of such drum shall be used only for the purpose of maintaining such drum in a stationary position and no lowering shall be done from an unclutched drum. Use of brake when drum unclutched.

(243) When men are in a hoisting conveyance the corresponding drum of the hoist shall be kept clutched in. When clutch to be kept in.

(244) (a) At every shaft or winze hoist there shall be kept a Hoistman's Log Book in which shall be recorded, Hoistman's Log Book.

- (i) a report of the working condition of the hoist, including the brakes, clutches, interlocking devices between the brake and clutch, depth indicators and all other devices and fittings pertaining to the safe operation of the hoist,

- (ii) a report of the working condition of the signalling apparatus and a notation of any signals received by the hoistman, the accuracy of which he has questioned,
- (iii) any special instructions received involving the safety of persons. Such entry shall be signed by the hoistman and by the person issuing the instructions,
- (iv) where the required tests of the overwind and underwind devices are conducted by a hoistman operating on another shift, the hoistman assuming duty shall note over his signature that he has examined the entry in the log book of the hoistman who performed the tests,
- (v) a report of all abnormal circumstances in connection with the operation of the hoist or attachments thereto and such abnormal conditions as have come to the hoistman's knowledge in connection with the hoisting operations in the shaft or winze,
- (vi) a report of all trial trips referred to in rules 236 and 275.

(b) A notification to the hoistman on a succeeding period of duty of any special circumstances or matter affecting the continued operation of the hoist or the safety of persons in the shaft or winze shall be made in the hoistman's log book. All such entries shall be countersigned by the hoistman assuming duty for such succeeding period.

(c) Such entries as are required by clauses *a* and *b* shall be made and signed by every hoistman for his period of duty on every shaft or winze hoist, the time and duration of which period of duty shall also be noted and such entries as have been made during the preceding twenty-four hours shall be read and signed each day by the master mechanic or other authorized person.

Hoist Brakes

Brakes
required.

(245) Any device used for hoisting from mine workings shall be equipped with a brake or brakes which may be applied directly to each drum so as to readily stop and hold the drum when it is carrying its maximum load.

Type of
brake.

(246) The brakes shall be so arranged that they can be tested separately and, whether the hoist is at work or at rest, can be easily and safely manipulated by the hoistman when at the levers controlling the hoist. No hoist used for the raising or lowering of persons or for shaft sinking shall be equipped

with a brake or brakes operated by means of a hoistman's foot, unless such brake is an auxiliary electrical device. The adjustments of the brake or brakes and brake mechanism shall be maintained in such condition that the brake lever or any other part of the brake mechanism will not come to the limit of travel before the normal power of the brake or brakes is applied.

(247) In the case of non-reversible steam or air hoists and single-drum electric hoists an adequate auxiliary brake shall be installed before the same shall be used for hoisting or lowering men, but non-reversible steam or air hoists with throttle-controlled exhausts shall not require such auxiliary brake. Auxiliary brake required.

Hoist Clutches

(248) The operating gear of the clutch of the drum shall be provided with locking gear to prevent the inadvertent withdrawal or insertion of the clutch. Locking gear.

(249) The brake and clutch operating gear shall be so installed that it shall not be possible to unclutch any drum unless the brake or brakes on such drum are applied, nor shall it be possible to release the brake or brakes until the clutch of the drum is engaged. Interlocking brake and clutch.

Hoist Drums

(250) Such bolts and other fittings of the drums, brakes and clutches as might be a danger in the event of their becoming loosened shall be rendered secure by means of suitable locking devices other than spring lock-washers. Securing of drum parts.

(251) On the drum of every hoist used for lowering or raising persons there shall be flanges and also, if the drum is conical, such other appliances as may be sufficient to prevent the rope or cable from slipping off. Slipping of rope on drum.

(252) In all hoist installations the dimensions of the drum or drums shall be suitable for the kind, diameter and length of the rope in service. The diameters of the hoist drums shall be large enough to prevent the occurrence of unduly large bending stresses in the rope. Where multiple-layer winding is used proper arrangements shall be made and maintained to permit the rope to rise evenly from one layer to another and to wind properly without cutting down through any lower layer. Suitability of hoist drum for rope.

(253) In all installations of newly acquired hoists and modifications of existing hoists designed to increase the hoisting capacity of the hoist, Hoist drum, specifications.

- (a) the drums of the hoist shall have grooving properly machined to fit the rope used, except that in the case of shaft sinking, preliminary development opera-

tions and other operations of a temporary nature hoists with plain drums may be used;

- (b) the drums shall have sufficient rope-carrying capacity to permit hoisting from the lowest regular hoisting point to the highest point of travel in the shaft without the necessity of winding more than three layers of rope on the drum;
- (c) the diameter of any hoist drum shall not be less than eighty times the diameter of the hoisting rope in use when the diameter of such rope is greater than one inch and shall not be less than sixty times the diameter of the hoisting rope in use when the diameter of such rope is not greater than one inch, but the Chief Inspector may, in case of shaft sinking and preliminary development operations, give permission in writing for the use of a hoist having a drum the diameter of which is not less than forty-eight times the diameter of the hoisting rope in use when the diameter of such rope is not greater than one inch, if he is satisfied that the equipment is such that adequate safety is provided;
- (d) the hoist and the head sheaves shall be so located in relation to one another as to permit the proper winding of the rope on the hoist drum.

Overwinding, etc., Air and Steam Hoists

Overwind
and under-
wind pro-
tection for
air or steam
hoists.

(254) In the case of steam or air hoists, where the depth of the shaft is greater than three hundred feet or the hoisting speed is greater than two hundred and fifty feet per minute, or in the case of any hoist designated by the Mechanical Inspector, there shall be provided suitable overwind and underwind protection for the hoisting conveyance, except that in shaft sinking, inspection and maintenance operations the underwind protection may be dispensed with.

Gauge
required.

(255) At all air or steam hoists there shall be installed, within plain view of the operator, a gauge to indicate the air or steam pressure.

Indicators

Indicator
required.

(256) Every hoist shall, in addition to any marks on the rope, be provided with a reliable depth indicator, which will clearly and accurately show to the operator at all times,

- (a) the position of the bucket, cage or skip;
- (b) at what positions in the shaft a change of gradient necessitates a reduction in speed.

(257) Hoist depth indicators shall be driven by a suitable train of gears from their corresponding hoist drum and all gears and pointers shall be attached to their respective parts in a positive manner. Operation of indicator.

Special Testing

(258) If the Mechanical Inspector deems it necessary, he may, after consultation with the manager, conduct or require to be conducted, specific tests of the efficiency of all brakes, clutches, mechanical overwind devices or other hoist controls. Special testing.

Examination

(259) The owner or manager of a mine where a hoist is in use shall depute some competent person or persons whose duty it shall be to examine at least once in each week the sheave wheels, the attachments of the hoisting ropes to the drums and to the counterweights, buckets, cages or skips, the brakes, interlocks and depth indicators and the buckets, counterweights, cages, skips, the external parts of the hoist, the mechanical hoisting signalling equipment, if any, the shaft dumping and loading arrangements, sinking doors and blasting sets and any attachments thereto, and to record the report of such examination in a book termed the Hoisting Machinery Record Book. Examination of hoisting equipment required.

Hoist Loading

(260) In all new hoisting installations and modifications of existing installations no new hoist nor any hoist which has previously been in use beyond the control of the present owner shall be used which is not accompanied by a certificate from the manufacturer giving the maximum permissible unbalanced load and the maximum permissible total rope pull of the hoist for the conditions under which the hoist is to be operated, and the hoist shall not be loaded beyond the maximum load so specified. No alterations designed to increase the hoisting capacity shall be made to any hoist unless approval is given by the hoist manufacturer or an independent competent hoist design engineer. Permissible hoist loading.

Hoisting Ropes

(261) (a) The connection between the hoisting rope and the bucket, cage, skip, counterbalance or other device shall be of such nature that the risk of accidental disconnection is reduced to a minimum. No open-hook device shall be used for such purpose. Rope connection.

(b) On all new installations or proposed changes to existing installations the method of making such connection shall be of a design approved by the Chief Inspector.

(c) The drum end of the rope shall be fastened to the spider of the drum or around the drum shaft in some suitable manner.

Splicing
prohibited.

(262) In no case shall a rope which has been spliced be used for hoisting purposes.

Length of
rope re-
quired on
hoist drum.

(263) (a) No hoist shall be operated with less than three turns of rope upon the drum when the bucket, cage or skip is at the lowest point in the shaft from which hoisting is effected.

(b) No hoist acquired after the 15th day of June, 1948, and no hoist existing on that date and modified after that date so as to increase the hoisting capacity of such hoist shall be operated with more than three complete layers of rope on the drum when the conveyance is at the highest point of travel in the shaft.

Test
certificate.

(264) (a) No hoisting rope shall be used which has not been tested by the Ontario Government Cable Testing Laboratory and for which a certificate of such test is not in the possession of the user.

Rope
certificate
required.

(b) No hoisting rope shall be used which is not accompanied by a certificate from the manufacturer giving the following information: name and address of manufacturer; manufacturer's rope number; date of manufacture; diameter of rope in inches; weight per foot in pounds; number of strands; class of core; percentage by weight of lubricant in core; trade name of interior rope lubricant; number of wires in strand; diameter of wires in decimals of an inch; breaking stress of steel of which the wire is made in pounds per square inch; standard torsion test of wires; actual breaking load of rope as provided by clause *a* of this rule; length of rope.

Rope data
to be entered
in Rope
Record
Book.

(c) When a rope is put on in any shaft compartment or hoisting way the foregoing data, along with the additional following information, shall be entered in a book termed the Rope Record Book: name of party from whom purchased; date of purchase; date put on in present location; identification number of rope; name of shaft or winze and compartment in which rope is used; weight of shaft conveyance; weight of material carried; maximum length of rope in service below sheave; maximum weight of rope in service below sheave; static factors of safety (at conveyance connection and at head sheave with rope fully let out); and date put on and removed from previous locations, if any.

Information
to be sent
to Chief
Inspector.

(d) Duplicate copies of such entries shall be forwarded to the Chief Inspector at the time the rope is put on in any location.

(e) The owner or manager shall keep or cause to be kept at the mine a book termed the Rope Record Book in which shall be recorded in addition to the information referred to in clauses *b* and *c* of this rule, a history of the hoisting rope outlining the date on which the rope was first put on, dates of shortening, dates and results of breaking tests, date and reason for taking off for each occasion the rope is put into and taken out of service.

Rope Record Book.

(f) The Rope Record Book shall always be open for inspection by the Inspector.

Rope Record Book open to Inspector.

(g) When a hoisting rope is taken out of service from any shaft compartment, notice to that effect shall be forwarded to the Chief Inspector, giving the date, the reasons for discarding or discontinuing the use of such rope, disposition of rope, and such other information as he may require.

Notification of rope discarded.

(265) No hoisting rope which has previously been in use in any place beyond the control of the owner shall be put on anew except with the permission in writing of the Chief Inspector. Request for permission to use such rope shall be accompanied by certification that the rope has been properly examined and that no apparent defects have been found. Two standard test pieces, one from each end of the rope, shall also be sent to the Ontario Government Cable Testing Laboratory for test.

History of rope required.

(266) No hoisting rope that has been removed from service at a shaft or winze compartment shall be put on anew for the purpose of raising or lowering men unless proper measures have been taken for the maintenance of such rope and the owner or manager is satisfied that the rope is in suitable working condition.

Precautions, used ropes.

(267) When any shaft compartment has been abandoned for hoisting purposes the hoisting rope shall immediately be removed from the shaft.

Rope removal.

(268) No hoisting rope shall be reversed until application has been made in writing to the Chief Inspector, standard test pieces from each end of the rope have been submitted for test, and approval for the reversal has been received from the Chief Inspector.

Rope not to be reversed.

(269) For the purpose of this rule the factor of safety of a hoisting rope in a shaft or winze shall mean the number of times the breaking strength of the rope is greater than the total weight supported by the rope at a definite place in such rope. The breaking strength of the rope shall mean the breaking strength of such rope as shown in the test certificate issued by the Ontario Government Cable Testing Laboratory before the rope is installed, as required by clause *a* of rule 264.

Factor of safety of hoisting rope.

- (a) Every hoisting rope when newly installed on newly acquired hoists, or on existing hoists modified to increase the hoisting capacity of the hoist shall have a factor of safety of not less than 8.5 at the end of the rope where it is attached to the shaft or winze conveyance and where the total weight consists of the combined weight of the conveyance plus the weight of the material hoisted. In addition such hoisting rope shall have a factor of safety of not less than 5 at the point where the rope leaves the head sheave and, the rope being fully let out, the total weight consists of the combined weight of the conveyance plus the weight of the material hoisted plus the weight of that portion of the rope which extends from the head sheave to the conveyance.
- (b) Every hoisting rope when newly installed on hoists which were the property of a mine on the 15th day of June, 1948, shall have a factor of safety of not less than 6 for shafts and winzes less than 2,000 feet in depth and not less than 5 for shafts and winzes over 2,000 feet in depth, at the point where the rope leaves the head sheave and, the rope being fully let out, the total weight consists of the combined weight of the conveyance plus the weight of the material hoisted plus the weight of that portion of the rope which extends from the head sheave to the conveyance.

Rope dis-
carded.

(270) No hoisting rope shall be used in any shaft or winze when in any part of such rope,

- (a) the existing strength has decreased to less than ninety per cent of the original strength of the rope;
- (b) the extension of a test piece has decreased to less than sixty per cent of its original extension when tested to destruction;
- (c) the number of broken wires in any section of the rope equalling the length of one lay of said rope exceeds six;
- (d) marked corrosion occurs.

Rope
dressing.

(271) (a) The rope dressing used on every hoisting rope shall be suited to the operating conditions of the rope and such dressing shall be applied at least once in every month and as often as is necessary to maintain the coating on the rope in good condition.

(b) Every time the rope is dressed a report of such treatment shall be recorded in the Hoisting Machinery Record Book and signed by the person who performs the work. Idem.

(272) The rope from the counterweight shall be attached to the drum of the hoist and not to the cage or skip. Counterweight.

(273) At least once in every six months the hoisting rope shall have a portion not less than eight feet in length cut off the lower end, from a position above the clamps or other attachment. The length so cut shall have the ends adequately fastened with binding wire before the cut is made, to prevent the disturbance of the strands, and shall be sent to the Ontario Government Cable Testing Laboratory for a breaking test. The certificate of such test shall be kept on file and a summary thereof recorded in the Rope Record Book. Testing of hoisting rope.

(274) The Chief Inspector may require that test specimens shall be cut from any rope discarded for use in mine hoisting at points specified by him and sent to the Ontario Government Cable Testing Laboratory for special testing and investigation, if he is of the opinion that such testing and investigation is in the interest of better mine hoisting practice. No charge shall be made for such special testing and investigation. Special testing of used hoisting ropes.

(275) A hoisting rope when newly put on, and after any subsequent cutting thereof, shall have the connecting attachments between the bucket, cage, skip, or counterweight and the connection between the drum and the rope carefully examined by some competent and reliable person or persons authorized by the owner, manager, or department head, and shall not be used for ordinary transport of persons in any shaft or winze until two complete trips up and down the working portions of such shaft or winze have been made, the bucket, cage, skip or counterweight bearing its authorized load. Examination of attachments.

(a) The hoistman shall make a record of such two complete trips in the Hoistman's Log Book.

(b) The results of such examination of the connecting attachments between the bucket, cage, skip or counterweight and hoist drum and the rope shall be recorded in the Hoisting Machinery Record Book and signed by the person making the examination.

(276) (a) At the periodical cutting of the rope for test the connection between the rope and the bucket, cage or skip, or counterbalance shall be thoroughly cleaned and examined. Cleaning and examination of rope connections.

(b) At such time the connection between the rope and the drum shall be thoroughly cleaned and carefully examined.

Examination of Ropes and Safety Appliances

Examination
of hoisting
ropes and
safety
appliances.

(277) (a) The owner or manager shall depute a competent person or persons who shall examine,

- (i) at least once in each day the exterior of the rope to detect the presence of kinks or other visible damage and to note the appearance of the rope dressing,
- (ii) at least once in each month the structure of that portion of the hoisting rope which is not on the hoist drum when the conveyance is at its lowest stopping point, with a view to ascertaining the deterioration thereof, and for the purpose of this examination the rope shall be cleaned at points selected by the said person or persons, who shall note any reduction in the diameter or circumference of and the proportion of wear in the rope. The starting point of the examination shall be changed slightly from month to month in order to obtain more complete information, but any part showing appreciable reduction in diameter or circumference or appreciable wear shall be checked when the rope is again examined,
- (iii) that portion of the rope which normally remains on the drum when the conveyance is at its lowest stopping point, and shall lubricate such portion; and if, during such examination of the rope, significant deterioration is found in the portion of rope on the drum or at the cross-over points, the rope shall be shortened sufficiently to eliminate any crushed portion or to change the position of the cross-over points if either or both are necessary,
- (iv) at least once in each day the safety appliances, if any, of the conveyance, to be sure they are clean and in proper adjustment and working condition,
- (v) at least once in every three months the safety catches of the cages or other conveyance so equipped, by testing the same; such test shall consist of releasing the empty conveyance suddenly in some suitable manner from rest so that the safety catches shall have the opportunity to grip the guides; and in case the safety catches do not act satisfactorily, the cage or other shaft conveyance shall not be used further for raising or lowering men until the safety catches have been repaired and have been proved to act satisfactorily, as referred to in subclause iii of clause *d* of rule 231.

(b) If the Mechanical Inspector deems it necessary he may, after consultation with the manager, conduct or cause to be conducted specific tests of the safety catches with which a conveyance is equipped.

(278) If, on any examination, there is discovered any weakness or defect whereby the safety of persons may be endangered, any such weakness or defect shall be immediately reported to the owner or manager or person in charge, and until such weakness or defect is remedied the hoisting plant shall not be used. ^{Defects to be remedied at once.}

(279) It shall be the duty of all such persons referred to in rule 277 to record the reports of all examinations referred to in that rule and also to record all reports referred to in rule 278 in a book termed the Hoisting Machinery Record Book. ^{Recording of examination and reports.}

Head Sheaves

(280) Head sheaves shall be of such diameter as shall be suited to the rope in use and shall be machined properly to fit the rope. ^{Head sheaves.}

- (a) The diameter of a head sheave used with a hoist referred to in rule 253 shall not be less than the diameter of the drum of such hoist.
- (b) In all installations of bi-cylindro-conical drum type hoists the diameter of the head sheave shall not be less than the diameter of the small cylindrical section of the corresponding drum.

Hoisting Machinery Record Book

(281) (a) The owner or manager shall keep or cause to be kept at the mine a book for each hoist, termed the Hoisting Machinery Record Book, in which shall be recorded a report of every such examination or report, as referred to in rule 259, clause *b* of rule 275 and rules 276, 277 and 278, and a notation of any failure of, accident to, correction or repairs to the hoist, the hoisting rope, the shaft conveyance or any other part of the hoisting, dumping or loading equipment, signed by the person making the examination or report. ^{Hoisting Machinery Record Book.}

(b) Such entries of examinations and notations shall be read and signed each day, week or month, as may be required, by the responsible person in charge of such equipment or accessories thereto. ^{Entries to be signed.}

(c) A notation shall be made in the Hoisting Machinery Record Book of the action taken regarding the report of any ^{what to be entered.}

failure of, accident to, correction or repairs to the hoist, the hoisting rope, the shaft conveyance or any other part of the hoisting, dumping or loading equipment, over the signature of the responsible person in charge of such equipment or accessories thereto.

Book to be
available.

(d) The Hoisting Machinery Record Book shall be made available to the Inspector at all times.

RULES GOVERNING USE OF ELECTRICITY

Interpre-
tation.

(282) In the following rules,

- (a) "armoured cable" means a cable provided with a wrapping of metal (usually metal tapes or wires) forming an integral part of the assembly, primarily for the purpose of mechanical protection;

(NOTE: Lead is not considered to be capable of affording such protection.)

- (b) "branch circuit" means that portion of a circuit extending beyond the final over-current devices on the circuit;

- (c) "circuit" means any complete conductor, loop, path, or unit current-carrying part of the system conductors, also that portion of a system controlled by a switch or protected by a cut-out;

- (d) "circuit-breaker" means an electro-mechanical device, designed to open, under both overload and short-circuit conditions a current-carrying circuit, without injury to the device;

- (e) "conductor" means a body so constructed from conducting material that it may be used as a carrier of electric current;

- (f) "contactor" means a device, operated other than by hand, for repeatedly establishing and interrupting an electric power circuit;

- (g) "control device" means all devices which are employed for the control of circuits and electrical equipment, and in these rules includes switches, circuit-breakers, fuse cut-outs, and contactors, but does not include disconnectors;

- (h) "disconnecter"—see "isolating switch";

- (i) "electrical equipment" means any equipment, machinery, apparatus, appliances, instruments, devices, fittings, or materials designed for, used in, or intended

to be used in the generation, transformation, transmission, distribution, supply or utilization of electric energy;

- (j) "electrical supply station" means any building, room or enclosed space within which is situated electrical supply equipment and which is accessible only to authorized persons and includes generating stations, sub-stations, generator enclosures, transformer enclosures, and other such stations or enclosures;
- (k) "feeder" means an electrical transmitting circuit of a system which supplies energy to sub-feeders or branch circuits at a distributing point in the system;
- (l) "fuse", "fuse cut-out" means a fusible device capable of automatically opening an electric circuit under pre-determined overload conditions by the fusing of metal;
- (m) "general use switch" means a switch intended for use in general distribution and branch circuits. It is rated in amperes and is capable of interrupting the rated current at the rated voltage;
- (n) "ground" means a connection to earth obtained by a ground electrode;
- (o) "grounded" means connected effectively with the general mass of the earth through a grounding system having current-carrying capacity sufficient at all times, under the most severe conditions which are liable to arise in practice, to prevent any current in the grounding conductor from causing a harmful voltage to exist,
 - (i) between the grounded conductors and neighbouring exposed conducting surfaces which are in good contact with the earth, or
 - (ii) between the grounded conductors and neighbouring surfaces of the earth itself;
- (p) "grounding conductor" means a path of suitable metal specially arranged as a means whereby electrical equipment is electrically connected to a ground electrode. In the case of flexible cords containing a grounding conductor, the grounding conductor may be uninsulated or, if insulated, green in colour;
- (q) "grounding system" means all those cables and other conductors, clamps, ground clips and ground

plates or pipes by means of which the electrical installation is grounded, including the ground electrodes to which such cable and other conductors, clamps and clips are attached;

- (r) "ground electrode" means a buried metallic water-piping system, or metal object or device buried in, or driven into, the ground (so as to make intimate contact therewith) to which a grounding-conductor is electrically and mechanically connected;
- (s) "guarded" means covered, shielded, fenced, enclosed, or otherwise protected by means of suitable covers, or casings, barriers, rails or screens, mats or platforms, to remove the likelihood of dangerous contact or approach by persons or objects;
- (t) "insulation"—Class A insulation shall give equal protection as provided by the following:
 - (i) cotton, silk, paper and similar organic materials when either impregnated or immersed in a liquid dielectric,
 - (ii) molded and laminated materials with cellulose filler, phenolic resins, and other resins of similar properties,
 - (iii) films and sheets of cellulose acetate and other cellulose derivatives of similar properties, and
 - (iv) varnishes (enamel) as applied to conductors;

Class B insulation shall give equal protection as provided by the following: mica, asbestos, fibre glass and similar inorganic materials in built-up form with organic binding substances. A small proportion of Class A materials may be used for structural purposes only;

Class C insulation shall give equal protection as provided by the following: mica, porcelain, glass, quartz and similar inorganic materials;

- (u) "isolating switch" means a switch intended for isolating either a circuit or equipment from its source of supply. It is not intended either for establishing or interrupting the load current in any circuit;
- (v) "magnetic contactor" means a contactor actuated by electromagnetic means;
- (w) "motor-circuit switch" means a switch intended for use in a motor branch circuit. It is rated in horse-

power and is capable of interrupting the maximum operating overload current of a motor of the same rating at the rated voltage;

- (x) "overload device" means a device affording over-current, but not necessarily short circuit protection, and capable of automatically opening an electric circuit either by the fusing of metal or by electro-mechanical means;
- (y) "switch" means a device for opening or closing or changing the connections of a circuit manually, and in these rules a "switch" is always to be understood as operated manually, unless otherwise stated;
- (z) "switchboard" means a panel or assembly of panels on which are mounted any combination of switching, measuring, control and protective devices, buses and connections, designed with a view to successfully carrying and rupturing the maximum fault current encountered when controlling incoming and outgoing feeders;
- (za) "utilization equipment" means equipment, devices and connected wiring, which utilize electrical energy for mechanical, chemical, lighting, testing or similar purposes and are not a part of supply equipment;
- (zb) "voltage", "volts" mean the highest effective difference of potential between the conductors of the circuit concerned;
- (zc) "voltage to ground" means,
 - (i) in grounded circuits the highest effective difference of potential between any wire of the circuit and ground,
 - (ii) in ungrounded circuits the highest effective difference of potential existing in the circuit;
- (zd) "wire gauge" means the standard known as Brown & Sharpe (B. & S.).

General Electrical Rules

(283) Where electrical apparatus is used at any mine it shall be in charge of an authorized person, who shall be qualified by experience to handle such apparatus. Every person operating or having charge of electrical apparatus shall have been instructed in his duty and shall be competent to perform the work that he is set to do. Repairs, extensions and changes to existing electrical installations shall be made only by qualified persons.

General
require-
ments.

(284) All electrical equipment shall be of such construction and so installed and maintained as to reduce the life and fire hazard as far as practicable. For greater certainty and in the absence of any specific approvals in the Rules Governing Use of Electricity, adherence to electrical codes recognized by the Minister shall be accepted as good practice.

Inspections
and repairs.

(285) Electrical equipment shall comply with these rules when placed in service, and shall thereafter be periodically inspected and, when necessary, cleaned. Defective equipment shall be put in good order or permanently disconnected. Defective wiring shall be repaired or removed.

Identifica-
tion of
equipment.

(286) All electrical equipment shall be suitably identified where necessary for safety. The voltage and intended use shall be shown, where important.

Locking of
tagging
switches.

(287) All switches controlling apparatus shall be locked or plainly tagged in the open position to prevent the inadvertent closing thereof while work is being done on the apparatus.

Notices.

(288) Notices placed on electrical equipment shall be of non-conducting materials.

Live
equipment.

(289) No repairs or alterations shall be carried out on any live equipment exceeding 300 volts to ground, except where complete disconnection of the equipment is not practicable. If the adjustment or repairs must be made while the equipment is alive, all necessary precautions shall be taken to ensure that the work may be done safely. In places where explosive or highly inflammable materials or gases are present repair or alteration shall not be made on any live equipment.

Grounding

Circuits to
be grounded.

(290) (a) One conductor of all circuits not over 150 volts shall be grounded if exposed to leakage from higher voltage circuits either through overhead construction or through transformers having a primary voltage exceeding 750 volts, except where such circuits form part of a control circuit or signalling system the grounding of which would affect the reliability of service.

(b) Three-wire single-phase circuits not exceeding 300 volts between outer conductors shall have the neutral grounded.

(c) One conductor of the secondary circuits of all instrument transformers shall be grounded unless the circuits are installed and guarded as required for the high-voltage circuits of the transformers.

(291) The exposed non-current-carrying parts of all electrical equipment shall be grounded when practicable, Equipment to be grounded.

(a) for all equipment over 150 volts;

(b) for all equipment under 150 volts where the exposed non-current-carrying parts are within reach of exposed grounded surfaces such as metal frames of other machines, plumbing fixtures, conducting floors or walls. Grounded surfaces within five feet horizontally of the parts considered, or within eight feet vertically of the floor, shall be considered within reach.

(292) The point of attachment of the grounding conductor to electrical equipment shall be readily accessible and attachment shall be made by means of suitable lugs, clamps, or other equivalent means. Means of attachment.

(293) The grounding conductor shall be of copper or other metal which will not corrode excessively under the existing conditions and, if practicable, shall be continuous. Ground connections from circuits shall not be made to jointed piping within buildings, except that water or air piping beyond any point which is liable to disconnection may be used. Material and continuity of grounding conductor.

(294) For grounding circuits the grounding conductors shall have a current-carrying capacity equal to one-fifth of the largest conductor of the circuit and shall never be less than No. 8, B. & S. The grounding conductor for secondary circuits of instrument transformers shall not be smaller than the conductors of the secondary circuit. Size of grounding conductor.

(295) For electrical equipment the current-carrying capacity of the grounding conductor shall not be less than that provided by a copper wire of the size indicated in the following table: Idem.

Capacity of nearest automatic overload device	Required size of grounding conductor B. & S. gauge
0 to 100 amperes.....	8
101 to 200 amperes.....	6
201 to 400 amperes.....	4
Over 400 amperes.....	2

(296) The grounding conductor or conductors for the exposed non-current-carrying metal parts of portable equipment operating at potentials of not more than 300 volts to ground shall have a combined cross-sectional area not less than 60 per cent of the power conductor and in no case less than No. 16, B. & S. gauge. The grounding conductor or conductors may be uninsulated, but, if insulated, shall be green in colour. Grounding conductor for portable equipment.

Protecting
ground
wire.

(297) Grounding conductors shall have adequate protection where exposed to mechanical injury.

Grounding
system,
connection
to earth.

(298) The grounding system shall be connected to the body of the earth, on the surface, through the lowest resistance earth contact possible.

Piping
system
ground.

(299) Metallic water or air lines may be used for grounding, provided that connection is made at a point where the pipe is not liable to disconnection for alteration or repairs. Main water or air lines shall be substantially bonded together for this purpose, but shall, unless connected to a buried piping system of considerable extent which will provide a low-resistance ground, be connected to an artificial ground.

Artificial
grounds.

(300) Grounding electrodes, consisting of buried plates, driven rods or pipes, shall be embedded, or extended below permanent moisture level. Grounding electrodes consisting of iron or steel pipes shall be not less than three-quarters of an inch in internal diameter and grounding electrodes consisting of rods shall be not less than one-half inch in diameter.

Method of
connection.

(301) The grounding conductor shall be connected to the grounding electrode by means of substantial ground clamp or other equivalent means. When connecting to a metallic piping system, all paint, scale, and rust shall first be carefully removed.

Ground
resistance
measure-
ment.

(302) The earth contact of the main grounding system and supplementary earth contacts shall be provided with means to facilitate measurement of earth contact resistances.

Lightning Arrester Rules

Grounding
non-current-
carrying
parts.

(303) All non-current-carrying parts of the arresters shall be grounded, unless effectively isolated by elevation, or guarded as required for live parts of the voltage of the circuit to which the arrester is connected.

Guarding
live parts.

(304) All current-carrying parts of arresters on circuits above 300 volts, unless effectively isolated by elevation, shall be adequately guarded to protect persons from inadvertent contact with them, or from injury by arcing.

Location of
lightning
arresters.

(305) Lightning arresters, when installed inside buildings, shall be located as far as practicable from all other equipment and from combustible parts of the building.

Provisions
for dis-
connecting.

(306) Lightning arresters on circuits over 7,500 volts and all lightning arresters which may require work to be done upon them from time to time shall be so arranged and equipped that they may be readily isolated by air-break manual disconnectors.

(307) Grounding conductors for lightning arresters on power transmission systems shall be run as directly as possible and be of low resistance and ample capacity. In no case shall such grounding conductors be less than No. 6 copper wire. Nor shall these conductors pass through metal conduits unless electrically connected to both ends of such conduits.

Grounding
conductors
for lightning
arresters on
power
transmission
systems.

Transformers

(308) Transformers shall be of a type and design suitable for the location in which they are to be installed. Each transformer shall be provided with a nameplate giving the maker's name, rating in kva, primary and secondary voltage ratings, frequency, and liquid capacity (if of the liquid-filled type). If the transformer is to be filled with an approved liquid that will not burn in air, the liquid shall be specified.

General
require-
ments.

(309) Transformers having a primary voltage in excess of 600 volts to ground and all transformers having exposed terminals, including their conductors and control and protective devices, shall be accessible only to authorized persons; unless isolated by elevation they shall be surrounded by an enclosure which, if of metal, shall be grounded; suitable warning signs indicating the highest potential employed shall be conspicuously posted.

Enclosure to
be provided.

(310) Oil-filled transformers shall not be mounted on or above combustible roofs and, if attached to the exterior of a building other than a transformerhouse, shall be placed only against non-combustible walls, away from all openings. Oil-filled transformers, if within a building other than a transformerhouse, shall be in a fireproof vault, suitably drained and ventilated to outdoors, the door openings to be provided with not less than six-inch non-combustible sills.

Oil-filled
transform-
ers.

(311) Transformer buildings containing oil-filled transformers, if not entirely of fireproof construction, shall be located at least fifty feet distant from any other combustible building. Oil-filled transformers installed outdoors shall be located not less than fifty feet distant from the shafthouse or any combustible building attached thereto and means shall be provided to contain escaping oil or to direct the flow away from such buildings.

Transformer
buildings.

(312) Dry-core type transformers with Class A insulation, if installed within a building not of fireproof construction, shall be within a fireproof enclosure. Transformers containing an approved liquid which will not burn in air and transformers of the dry-core type with Class B or C insulation may be installed within or attached to the wall of a building not of fireproof construction, provided they are surrounded by a

Special
transformers.

suitable enclosure to prevent mechanical injury and access by unauthorized persons.

Control of transformers.

(313) Suitable control devices shall be installed on the primary side of all power and distribution transformers. Minimum requirement for the control devices on the main high-tension transformer bank connected to the supplier's lines shall consist of a set of gang-operated air-break disconnecting switches or a suitable circuit-breaker preceded by disconnecting switches.

Protection of transformers.

(314) Transformers shall be protected against overload and short-circuit by suitable protective devices, unless the nature of the system makes protective devices inadvisable or unnecessary.

Protection of instrument transformers.

(315) Secondary circuits of current transformers shall be provided with means for short-circuiting them which can be readily connected while the primary is energized, and which are so arranged as to permit the removal of any instrument or other device from such circuits without opening the circuits

Idem.

(316) When primaries are above 7,500 volts secondary circuits of current and potential transformers, unless otherwise adequately protected from injury or contact of persons, shall be in permanently grounded conduit or flexible armour.

Supply Stations

Supply stations to be inaccessible to unauthorized persons.

(317) No unauthorized person shall enter an electrical supply station or interfere with the workings of any electrical equipment connected therewith. Utilization equipment, if enclosed in a separate room which is inaccessible to unauthorized persons and when in service is under the control of a qualified electrical operator whose attention is not distracted by other processes, shall be considered as electrical supply station equipment. When the authorized person is not present the door of such room shall be kept securely locked.

(a) In case of abandonment of a mine, the owner, manager, or superintendent shall cause such station or stations supplying power to and being the property of the mine, to be disconnected from the power source and within fourteen days he shall notify the Chief Inspector in writing that such disconnection has been made.

Supply station equipment.

(318) In supply stations suitable working space shall be provided and maintained about all electrical equipment. The following minimum clearances shall be maintained:

Volts to ground	Equipment on one side aisle	Equipment on both sides aisle
300 to 750	2.5 feet	3 feet
Above 750	3 feet	5 feet

(319) (a) In supply stations, current-carrying parts and conductors shall be guarded unless they are elevated the following distances above floors which may be occupied by persons: Guarding current-carrying parts.

Circuit voltage	Elevation in feet
300 to 750.....	7
751 to 2,500.....	7.5
2,501 to 7,500.....	8
7,501 to 30,000.....	9
30,001 to 70,000.....	10
70,001 to 100,000.....	12

(b) Where current-carrying parts must necessarily be exposed (unguarded) at distances less than those specified from the floor line, all surrounding conducting floors shall be covered with suitable insulating mats or platforms. Where the current-carrying parts operate at over 7,500 volts, they shall be guarded, even when insulating mats are also provided.

(320) Control devices over 300 volts to ground, unless so located or guarded as to eliminate the danger of accidental contact, shall have all current-carrying parts in either metal or fire-resistive enclosures. Enclosing live parts.

(321) Rooms and spaces shall have good artificial illumination. Arrangement of permanent fixtures and plug receptacles shall be such that the portable cords need not be brought into dangerous proximity to live electrical apparatus. All lamps shall be so arranged that they can be controlled and replaced from readily accessible places. Lighting for supply stations.

(322) A separate emergency source of illumination, from an independent generator, storage battery, lanterns or other suitable source, shall be provided in every station where an attendant is located. Emergency lighting for supply stations.

Switchboards

(323) Panels of switchboards shall be of incombustible material and shall be substantially supported on a metal framework. Construction.

(324) All control devices shall be so arranged that the operating mechanisms are readily accessible to the operator. Control devices accessible.

(325) Adequate working space shall be provided around all switchboards, and they shall be so placed that the operator will not be endangered by machinery or equipment located Location and lighting.

near the board. Adequate illumination shall be provided for reading instruments and other operations.

Protecting
against short
circuiting.

(326) Exposed bare parts of different potentials on any switchboard or panelboard shall be as few as practicable and these shall be effectively separated.

Guarding
current-
carrying
parts.

(327) All switchboards, except in supply stations, having exposed current-carrying parts less than eight feet from the floor and operating at over 150 volts to ground shall be suitably guarded. Open-type disconnectors mounted above switchboard panels shall not be considered exposed if set back one foot from the face of the panel and elevated so that no bare current-carrying part is less than six and a half feet from the floor.

Switch-
boards below
150 volts
accessible to
unauthorized
persons.

(328) Where switchboards at voltages below 150 to ground are accessible to other than authorized operators they shall, where practicable, be enclosed in cabinets or screens as an effective precaution against accidental short-circuit.

Transmission Lines

Design and
construction.

(329) All electrical supply lines and equipment shall be of suitable design and construction for the service and the conditions under which they are to be operated, and all lines shall be so installed and maintained as to reduce the life hazard as far as practicable.

Guarding
supply lines.

(330) Conductors and other current-carrying parts of supply lines shall be so arranged as to provide adequate clearance from the ground or other space generally accessible, or shall be provided with guards so as to isolate them effectively from accidental contact of person.

Entrance to
buildings.

(331) Where supply lines over 300 volts to ground pass over or are attached to any buildings for entrance, they shall be permanently guarded if accessible.

Clearance
over
railways.

(332) Supply lines carried over railways operated by steam, electric or other motive power and on which standard equipment, such as freight cars, is used shall have the style of construction and clearances overhead as called for in the regulations of the Board of Transport Commissioners for Canada. Supply lines crossing over railways on which standard equipment is not used and lines crossing over roadways shall have ample clearance for the operating conditions and shall be substantially supported.

Conductors

General
rule.

(333) Conductors shall be suitable for the location, use and voltage of the circuit and shall have sufficient current-carrying capacity for the current they are required to carry.

(334) All conductors, where not protected by conduit or ^{Insulating conductors.} armoured, shall have approved insulation and shall be mounted on cleats, porcelain knobs or insulators and shall be separated from contact with floors, walls or partitions by tubes or incombustible insulating material.

(335) All fixed conductors operating at over 150 volts, ^{Isolating conductors.} unless isolated by an elevation of at least eight feet, shall be enclosed in grounded metal armour or shall be guarded by permanent screens or enclosures.

(336) Temporary wiring and equipment which is not in ^{Temporary wiring.} compliance with these rules may be used in the case of an emergency, but only when under competent supervision or protected by suitable barriers or warning signs while it or neighbouring wiring is alive and accessible to unauthorized persons. Such temporary installation is permissible only for the period of the emergency.

(337) Supply circuits to portable equipment over 300 volts, ^{Portable power cables.} unless armoured, shall have all their conductors, including one or more grounding conductors, contained in one flexible, portable cable. Such cables shall conform with the following specifications:

- (a) All portable cables transmitting power at a potential exceeding 300 volts shall have a voltage rating of 50 per cent higher than the normal operating voltage.
- (b) Minimum size of power conductor shall be No. 12, B. & S. gauge.
- (c) Such cables shall contain grounding conductors having a minimum of 60 per cent of the area of the largest conductor or interstitial grounding conductors having a total conductance of not less than 60 per cent of the largest power conductor. The minimum size of any grounding conductor shall be No. 12, B. & S. gauge.
- (d) Cables transmitting power at a potential exceeding 750 volts shall have a grounded sheathing consisting of tinned copper wire mesh, or equivalent, around each power conductor.
- (e) All portable cables transmitting power underground, unless armoured, shall have a non-inflammable covering, suitably identified.

Control and Protection of Circuits

(338) Suitable control devices shall be inserted in all feeders ^{Control.} and branch circuits. These control devices shall be readily

accessible and as close as possible to the point of supply. They shall be grouped where practicable.

Switches for temporary wiring.

(339) Switches or plug connectors shall be placed in all circuit leads at the point where temporary wiring or portable conductors are connected to the permanent wiring.

Guarding switches above 300 volts.

(340) All switches interrupting circuits over 300 volts shall be operated by means of remote control mechanism or be provided with suitable casings protecting the operator from danger of contact with current-carrying parts.

Capacity of control devices.

(341) Control devices, with the exception of isolating switches, shall have a rated capacity such as to ensure safe interruption, at the working voltage, of the greatest current which they may be required to carry and shall be of such a design as to operate safely on the system from which the circuit is energized. Each control device shall be provided with a nameplate giving the manufacturer's name, the voltage rating and ampere capacity.

Enclosing live parts.

(342) Control devices over 150 volts to ground, unless so located or guarded as to render them inaccessible to unauthorized persons, shall have all current-carrying parts in either metal or fire-resistive enclosures.

Guarding control devices.

(343) The handles of manually-operated control devices shall be accessible to the operator without opening a door or cover giving access to live parts and shall indicate the "on" and "off" positions.

Connections to control devices.

(344) Control devices shall, if practicable, be so connected that the blades or moving contacts will be dead when the device is in the open position.

Connection to protective devices.

(345) Control devices with attached overload and short-circuit protective devices shall be so connected that the overload and short-circuit devices will be dead when the control device is in the open position.

Circuit voltages.

(346) Where it is necessary for circuits of different voltages to enter the same terminal box or interlocking relay cabinet, the circuits shall be effectively separated by barriers or shall be clearly marked.

Conductors in armour.

(347) All conductors of an A.C. circuit shall be run in the same conduit or armoured.

Connections to apparatus.

(348) Metal-covered and insulated conductors in conduit, where joined to transformers, motors, switchgear and other apparatus, shall have their metal coverings secured to such apparatus by clamps, locknuts or other devices to protect the insulated conductors from mechanical injury.

(349) Where fuses are installed for the protection of circuits or equipment only an approved type fuse and fuse holder of proper rating shall be used. Type of fuses.

(350) Unless fuse cut-outs are so arranged that the fuses can be safely disconnected from all sources of electrical energy before the ungrounded current-carrying parts can be touched, switches shall always be so placed and arranged that opening them will disconnect the fuses from all sources of electrical energy. Switches to disconnect fuses and fuse cut-outs.

(351) Fuse cut-outs on circuits above 300 volts to ground shall be made inaccessible to unauthorized persons, and switches shall be so placed and arranged that opening them will disconnect the fuses from all sources of electrical energy. Protecting fuse cut-outs above 300 volts.

(352) All fuse cut-outs installed indoors shall be installed in approved fireproof cabinets or shall be of fireproof type. Fuse cut-outs in fireproof cabinets.

(353) Except as provided for in this rule, every conductor installed underground or within mine buildings shall be protected against short circuit at the point where it receives its supply and at any point where the size of the conductor is reduced. Such conductors shall also be protected against overcurrent and the rating or setting of the protective device shall not exceed the allowable current-carrying capacity of the circuit conductors except in the case of branch motor circuits where the rating or setting of the device may be increased sufficiently to take care of motor-starting currents. Unless the opening of the device disconnects all circuit conductors at the same time, no manually-operated or automatically-operated disconnecting device shall be placed in a neutral or grounding conductor. Such protection may be omitted in the following cases: Protection for inside circuits.

- (a) If the branch circuit is not more than twenty-five feet in length.
- (b) If the protection for a larger conductor properly protects a smaller.
- (c) If the opening of the circuit may cause special hazard by interruption of service or removal of protection.

(354) Unless a control device on circuits above 300 volts makes a visual air-break, if the control device, the circuit, or equipment controlled by the device requires adjustment or repair there shall be installed between it and the source of energy a suitable air-break disconnecter. When air-break switches required.

(355) Disconnectors shall be of suitable voltage and ampere rating for the circuit in which they are installed and, unless accessible only to qualified persons, they shall be protected Disconnectors.

by signs warning against opening the switch under load. All switches used as isolating switches shall be of the visual air-break type.

Barriers. (356) Barriers shall be provided between circuits where more than one set of disconnecting switches are installed adjacent to each other.

Ground detector. (357) On all ungrounded distribution systems over 300 volts suitable instruments or devices shall be installed and maintained for indicating the presence of ground faults.

Control and Protection of Apparatus

General requirements of control devices. (358) All control devices shall be readily and safely accessible to authorized persons; they shall be so located, labelled or marked as to afford means of identifying circuits or equipment supplied through them; manually-operated control devices shall indicate whether they are open or closed. They shall be so installed, where practicable, that they cannot be closed by gravity and such switches as close by gravity shall be provided with a proper stop-block or latch to prevent accidental closing.

Control of electrical equipment. (359) Suitable control and protective devices shall be installed in the leads to all individual pieces of electrical equipment such as generators, motors, transformers, storage batteries, electric furnaces, and other such equipment, except between parts or pieces of apparatus intended to operate as a unit.

Good contact required. (360) Switches, controllers and rheostats shall be so constructed as to make and maintain good contact. Knife switches shall maintain such alignment under service conditions that they may be closed with a single, unhesitating motion.

Control devices, outdoors. (361) All control devices installed outdoors shall be of an approved type, or suitably protected from the weather.

General. (362) All exposed current-carrying parts of electrical equipment such as bus bars, conductors and terminals, operating at over 150 volts and not isolated by an elevation of at least eight feet, shall be effectively guarded.

Utilization equipment. (363) Suitable working space shall be provided and maintained about all electrical equipment. Where adjacent to exposed live parts such working spaces shall be so arranged that they will not be used as passageways. The working space, where adjacent to exposed parts within eight feet of the floor, shall, where practicable, have the following minimum horizontal dimensions:

Volts to ground	Equipment on one side aisle	Equipment on both sides aisle
Below 150	1.5 feet	2.5 feet
Above 150	2.5 feet	4.0 feet

(364) (a) All motors shall be provided with proper starting equipment rated in horsepower and for all motors up to 50 horsepower, except as provided for below, the motor and its starting equipment shall be controlled by a motor-circuit switch which will disconnect all ungrounded conductors of the circuit, leaving the motor and entire starting equipment dead. An isolating switch or a general-use switch treated as an isolating switch may be used for motors of more than 50 horsepower. Control of motors.

(b) For all motors up to 750 volts, the motor-circuit switch shall have a horsepower rating not less than that of the motor it controls. Where a general-use switch or an isolating switch is used for motors of more than 50 horsepower it shall have a rating not less than 115 per cent of the current rating of the motor as shown on the nameplate and a minimum rating of 200 amperes. In all cases the motor-circuit switch, general-use switch or isolating switch shall be so constructed that the "open position" may be verified by visual inspection.

(c) The motor-circuit switch may be omitted where a circuit breaker or autostarter is employed as the starting device. In this case the motor-circuit switch may be replaced by a general-use switch or isolating switch.

(d) Manually-operated motor starters of the compensator type having both a starting and running position shall be so designed that they cannot remain in the starting position.

(e) One motor-circuit switch may serve a group of motors if the motors drive several parts of a single machine or apparatus.

(365) Manually-controlled starters for all D.C. motors and for all A.C. motors over five horsepower shall be so designed and the circuits so arranged that they return automatically to the "off" position upon the failure of the energy supply, except where the motors and their starting devices are, during operation, under the supervision of qualified persons and equivalent protection is otherwise provided. Motor control devices.

(366) Each motor shall be protected against continuous overload by an overload device that will interrupt the circuit at 125 per cent of the normal current rating of the motor. Protection of motors.

Electric Hoists

- Installation. (367) All electric hoists shall be so installed that:
- Automatic brake. (a) One or more brakes will be applied automatically to bring the hoist to rest in event of power failure.
- Overwind and underwind devices. (b) A suitable overwind and underwind device in conjunction, if necessary, with a suitable overspeed device will cause the circuit breaker to cut off the source of power and apply automatically one or more brakes to bring the hoist to rest before the cable attachment can reach the sheave or before the conveyance reaches the position of any permanent obstruction to its free passage, except that in shaft sinking, inspection and maintenance operations the underwind protection may be dispensed with. Such device shall be so designed, installed and maintained as to provide positive protection at all times and to function at a definite point in the travel of the conveyance. No person shall alter the adjustment of any overwind or underwind device without proper authority.
- Intermediate obstructions. (c) Where ore or waste dumps, loading boxes or spill doors are installed in any shaft at points other than the upper and lower limits of the regular travel of the shaft conveyance and where any part of such dump box or door, when in the operating position, interferes with the free and unobstructed passage of the conveyance to points in the shaft beyond such dump boxes or doors, there shall be installed,
- (i) overwind and underwind protection, as required by clause *b* of this rule and rule 369 of this section, for permanent obstructions,
 - (ii) positive locking devices for maintaining such obstructions out of the operating position in the shaft, and
 - (iii) the manager or his agent of a mine employing such ore or waste dumps, loading boxes or spill doors shall provide an adequate procedure for the safe operation of such equipment, which shall be approved by the Chief Inspector.
- Circuit-breaker. (d) A circuit-breaker will cut off the source of power and result in the automatic application of one or more brakes to bring the hoist to rest in the event of a predetermined overload. The circuit-breaker shall

be installed on the supply side of the hoist reversing contactors or controllers. This circuit-breaker shall be equipped with overload, short-circuit and low-voltage protective devices. The control circuit shall be so arranged that the circuit-breaker will be opened by an emergency switch, as provided for in clause *g* of this rule. The overload device shall be set so as to open the circuit-breaker in the event of a pre-determined overload.

- (*e*) A back-out switch will permit backing out of an overwind and underwind position only and will prevent the operation of the hoist in the improper direction for this purpose. Back-out switch.
- (*f*) An underwind by-pass switch may be installed, where necessary, which will allow the conveyance to be lowered through the underwind position, provided that such by-pass switch shall be held in the closed position by the hoistman and will return automatically to the open position when not so held. Underwind by-pass switch.
- (*g*) An emergency switch will, when opened, cause the circuit-breaker to cut off the source of power and apply automatically one or more brakes to bring the hoist to rest. The emergency switch shall be manually opened and closed and shall be installed in a position readily accessible to the hoistman. Emergency switch.
- (*h*) An ammeter in plain view of the hoistman will show the load on the hoist motor at all times. Ammeter.

(368) (*a*) On all electric hoists used for hoisting men in skips or in skips of skip-cage assemblies, an auxiliary overwind device shall be installed which will prevent the conveyance being hoisted to the dumping position and which may be placed in operation at all times that men are carried; on hoists not used for hoisting men other than for shaft inspection or maintenance operations such auxiliary overwind device shall not be required. Auxiliary overwind.

(*b*) Except in shaft sinking such auxiliary overwind device shall be so installed that a distinctive signal will be automatically given to the men about to enter the conveyance when the device is put in operation. The auxiliary overwind device may be placed in operation either manually or automatically. In those cases where the device is automatically put into operation by the hoistman's return of the 3-bell signal, the circuit shall be so arranged that the failure of the relay coils will not render the device inoperative.

(369) At every shaft exceeding three hundred feet in depth below the collar adequate provision shall be made whereby Warning signal.

the hoistman is warned, audibly, of the arrival of the shaft conveyance at points in the shaft the distances of which from the top and bottom landing places are not less than the equivalent of three revolutions of the drum of the hoist. The warning signal shall be so arranged as to sound only when the hoisting conveyance is approaching the top or bottom landings, not leaving them.

Special
testing.

(370) If the Electrical Inspector deems it necessary, he may, after consultation with the manager, conduct or require to be conducted specific tests of the efficiency of all electric overwind and underwind devices, signalling and warning devices and hoisting controls and equipment.

Electrical
Hoisting
Equipment
Record
Book.

(371) The owner or manager of a mine where an electric hoist is in use shall depute some competent person or persons whose duty it shall be to examine at least once in each week the hoist motor and control apparatus, electric safety devices and hoisting signalling equipment. The report of such examination shall be recorded in a book termed the Electrical Hoisting Equipment Record Book.

- (a) Such owner or manager shall keep or cause to be kept at the mine for each hoist a book termed the Electrical Hoisting Equipment Record Book in which shall be recorded a report of every such examination referred to in this rule and a notation of any failure or accident to such equipment and the action taken regarding it, signed by the person making the examination.
- (b) Such entries of the weekly examination shall be read and signed every week by the responsible person in charge of such equipment or accessories thereto.
- (c) A notation of the action taken regarding the report of any failure or accident to any part of the electrical equipment used in connection with the hoist or the signalling equipment shall be made over the signature of the responsible person in charge of such equipment or accessories thereto.
- (d) The Electrical Hoisting Equipment Record Book shall be made available to the Inspector at all times.

Lighting Fixtures

Guarding
live parts.

(372) Electric fixtures, such as lamp sockets and lamp bases, plugs, receptacles, etc., shall be so installed that no current-carrying parts shall normally be exposed externally when these parts are within reach of grounded surfaces.

(373) The operating voltage of any lighting circuit shall not exceed 300 volts and the voltage to ground of any conductor shall not exceed 150 volts. This rule shall not apply in the case of electric locomotives and cranes using direct current. Voltage of lighting circuits.

(374) The neutral conductor on lighting circuits shall be identified by a white braid covering or other equivalent means. Identification of neutral conductors.

(375) In locations where exposed to dampness or mechanical injury, portable lamps shall have their sockets enclosed in wood or composition handles, through which the conductor shall be carried, and shall have a substantial wire cage which encloses the lamp. A hook for hanging the lamp shall be attached either to the cage or to the handle. Style permitted.

Wiring in Explosive Storages

(376) All electrical wiring in explosive magazines, thaw houses, detonator or blasting cap storage buildings, or cap and fuse houses shall be installed in rigid conduit with screwed water-tight joints, or shall be armoured lead-covered cable. All conduit, armour, fittings and fixtures shall be permanently grounded. Lighting fixtures shall be an approved dust-tight type. Wiring in explosive storages.

(377) The switches and fuses for lighting, heating or telephone circuits for explosives magazines, thaw houses, detonator or blasting cap storage buildings and cap and fuse houses shall be in a fireproof cabinet located outside the compartment in which explosives, fuses or detonators, or blasting caps are stored. Lighting circuits shall be fused at not more than 10 amperes. Switches, fuses.

(378) Where thaw houses, or cap and fuse houses are heated electrically, a hot-water system shall be used. The electric heater shall be installed outside the compartment in which the explosives are stored and the heater and radiators shall be grounded. Heater circuits shall be fused at not more than 125 per cent of normal current. Wire or grid-type heaters shall not be installed in or about any building in which explosives or detonators or blasting caps are stored or handled. Electric heating.

Electric Blasting Devices

(379) The firing device used for firing shots with electricity from lighting or power cables shall be so arranged that, Electric blasting devices.

- (a) the switch mechanism will automatically return to the open position by gravity;

- (b) the live side of such device is installed in a fixed locked box and shall be accessible only to the authorized shot-firer;
- (c) provision is made that the leads to the face are short-circuited when the contacts of the shot-firing device are in the open position;
- (d) the box in which the shot-firing device and the short-circuiting device are mounted is provided with a lock and the door is so arranged that it cannot be closed or locked unless the contacts of the firing device are open and the short-circuiting device is in place;
- (e) where electricity from 550-volt circuits is used for shot-firing the device shall be electro-magnetically operated, except as provided in rule 89.

Precautions
re installa-
tion of
shot-firing
cables.

(380) When shot-firing cables or wires are installed in the vicinity of power or lighting cables, proper precautions shall be taken to prevent the shot-firing cables or wires coming in contact with the lighting or power cables.

Grounded
circuits.

(381) Circuits having a grounded conductor shall not be used for shot-firing.

Telephones

Protecting
equipment.

(382) Telephone or other signal apparatus which must be handled by persons and which is connected to overhead signal circuits exposed by supply lines over 400 volts to ground shall be protected as follows:

- (a) By fuses and arresters.
- (b) All exposed non-current-carrying metal parts shall be permanently grounded; or, the apparatus shall be installed in such a way that a person using it will be obliged to stand on an insulated platform, in an insulated booth, or on other insulating surfaces.

Protecting
equipment
exposed to
induced
voltage.

(383) Telephone or signal apparatus which is connected to a line which parallels a supply circuit of high voltage shall be protected by transformers and shall comply with the requirements of rule 382.

Cranes and Elevators

Disconnec-
tions for
cars and
cranes.

(384) Readily accessible means shall be provided whereby all conductors and equipment located in or on cars or cranes may be disconnected entirely from the source of energy at a

point as near as possible to the trolley or other current collector.

(385) A circuit-breaker or switch, capable of interrupting the circuit under heavy loads, shall be used unless the current collector can be safely removed, under heavy loads, from the trolley wire. Switch required on cars and cranes.

Storage Batteries

(386) Storage batteries in rooms used also for other purposes shall be adequately guarded or enclosed. Means shall be provided, if necessary, to prevent dangerous accumulations of inflammable gas. Batteries whose operating voltage exceeds 50 volts shall be installed in conformity with the general rules covering equipment. Protection of storage batteries.

Trolleys and Portable Apparatus

(387) Trolley or crane collector wires, whether indoors or out, shall, where practicable, be elevated at least eight feet above the ground level and be provided with suitable guards so arranged that persons cannot inadvertently touch the current-carrying parts while in contact with the ground or with conducting material connected to the ground. Guarding trolley or crane collector wires.

(388) In underground workings, tunnels or under bins or in similar locations where trolley wires are necessarily less than eight feet above the rail level, the operating voltage shall not exceed 300 and the wires shall be effectively guarded to prevent accidental contact of person. Operating voltage in underground workings, tunnels, etc.

(389) Every locomotive, engine, trolley or motor car used for hauling material either above or below ground shall be equipped with a headlight or headlights, and a whistle, bell, gong or horn, which shall be maintained at all times in proper working condition. Warning equipment.

(390) Control levers of storage battery and trolley locomotives shall be so arranged that the lever cannot accidentally be removed when the power is on. Control levers.

Fire-fighting Appliances

(391) Where installed electrical apparatus presents a fire hazard each room or space shall be provided with an adequate approved fire-extinguishing appliance, conveniently located and conspicuously marked. No chemical appliance which has not been approved for use on live parts shall be placed in any room containing electric apparatus or exposed lines unless a sign is mounted at the appliance warning against its use on electrical fires. Fire extinguishers.

Underground Installations

General rule. (392) All rules that apply to surface installations shall apply equally to underground installations. The following are special rules applicable only to underground installations.

Control of underground feeders. (393) Where electrical energy is taken underground, provision shall be made so that the current can be cut off on the surface. The control device shall not be accessible to unauthorized persons and, if not located in a supply station, shall be in a separate room or screened-off enclosure.

Test certificate necessary. (394) All new cables purchased for the transmission of power underground at a potential in excess of 750 volts shall be accompanied by the manufacturer's certified report of insulation tests, a copy of which shall be filed with the Chief Inspector of Mines.

Rating of underground cables and circuit-breakers. (395) (a) All cables transmitting power underground at a potential exceeding 750 volts shall have a voltage rating of 50 per cent higher than the normal operating voltage.

(b) All control devices designed to afford short-circuit protection on circuits exceeding 750 volts shall have a voltage rating of 50 per cent higher than normal operating voltage.

Voltage signal system. (396) The operating voltage on signal systems shall not exceed 150 volts to ground. One conductor of the two-wire signal circuit shall be grounded where the power supply is obtained from a transformer having a primary voltage in excess of 750 volts. The signal system may be operated with both conductors ungrounded when the supply is from a transformer having a primary voltage in excess of 750 volts, provided an insulating transformer having a one-to-one ratio is installed between the supply and the signal system.

Electric signal system. (397) Where an electrical hoisting-signal system is installed at any shaft or winze there shall be a suitable, separate, audible signal system for the control of each hoisting conveyance operated from a single hoist and there shall be a sufficient difference in the sounds of the signals to the hoistman that they are easily distinguishable and it shall be so arranged that the hoistman can return the signal to the person giving the signal.

Power conductors. (398) (a) Conductors for all circuits not over 150 volts to ground shall either be installed in standard conduits, armoured on non-inflammable casings, or securely tied to suitable insulators so that they do not touch any timbering or metal. On no account shall staples be used. Open-type wiring shall not be used in timbered shafts or winzes, except in cases of extreme emergency.

(b) All fixed conductors transmitting power underground at over 150 volts to ground shall be armoured or enclosed in standard conduit and substantially supported. Grounding of casings.

(399) The armouring or casings of all cables shall be bonded together so as to be electrically continuous and shall be connected at some point or points to a satisfactory ground on surface.

(400) Where the armouring or casings of cables do not provide an adequate grounding system for underground electrical equipment, a copper or other non-corrosive grounding conductor of adequate size shall be run from such equipment to a satisfactory ground on surface. Grounding of equipment.

(401) At all underground stations where any cable transmitting power at a potential exceeding 300 volts leaves the shaft, a room or junction box shall be provided into which such cable shall be run. Room or junction box.

(402) Junction boxes on any cable transmitting power at a potential exceeding 300 volts shall not be located in any shaft or winze or attached to any timbers at a shaft or winze station or in a headframe. Splice boxes for cable extension in a shaft or winze shall be of a type approved by the Inspector. Junction or splice boxes.

(403) All lead-sheathed cables shall be provided with properly sealed cable terminals to exclude moisture from the insulation. Terminals of lead-sheathed cables.

(404) The bases of electric motors, transformers, starting equipment and other electrical apparatus and the compartments in which such are installed shall be of such material and constructed in such manner as to reduce the fire hazard to a minimum. No inflammable material shall be stored or placed in the same compartment with any such equipment or apparatus. Fire prevention about electrical installations.

(405) Where lamps, wire or grid-type heaters are used underground they shall be so installed and protected as to prevent the heat generated from becoming a fire hazard. Electric heaters.

(406) Approved fire-extinguishing devices for use on electrical fires shall be provided and maintained in condition for immediate use. They shall be conveniently mounted at or in every place containing electrical apparatus having inflammable insulation or parts which, once ignited, can support combustion. Fire protection.

(407) The type and location of transformers installed underground shall be subject to the approval of the Electrical Inspector. Transformers, type and location.

Trans-
formers and
transformer
rooms.

(408) (a) All transformers over 2 kva, unless insulated with non-inflammable dielectric liquids or Class B or C insulation, when installed underground, shall be effectively isolated from the mine workings by enclosure in rooms constructed of fire-proof materials throughout. A door sill of not less than six inches in height shall be provided.

(b) No material or equipment of any kind, including air lines, air ducts, water or steam lines, shall pass through or terminate within the room other than that essential to the transformer installation or its proper operation and safety.

(c) The covers of the ventilation openings shall be held open by thermal fuse links and shall close by gravity; the door shall be constructed of steel or other suitable material.

(d) No transformer station shall be located within two hundred feet of any explosives storage.

Protection of
signal and
telephone
wires.

(409) Adequate precautions shall be taken to prevent electrical signal or telephone wires, whether insulated or not, coming into contact with other electrical conductors.

GENERAL

Wilful
damage to
property.

(410) No person shall wilfully damage, or without proper authority remove or render useless any fencing, casing, lining, guide, means of signalling, signal, cover, chain, flange, horn, brake, indicator, ladder, platform, steam-gauge, water-gauge, safety-valve, electrical equipment, fire-fighting equipment, first aid equipment or other appliance or thing provided in any mine in compliance with this Act.

Persons
under the
influence of
or carrying
liquor.

(411) No person under the influence of or carrying intoxicating liquor shall enter any mine or be in the proximity of any working place on the surface or near any machinery in motion.

Abstracts
of rules
to be posted.

(412) Abstracts of the rules contained in this Act, authorized by the Chief Inspector, shall be posted up in suitable places at the mine or works where the same can be conveniently read and the owner or agent of the mine shall maintain such abstracts, duly posted, and the removal or destruction of the same shall be an offence against this Act.

Charges
and fees.

(413) The Minister may, under rules and regulations made by the Lieutenant-Governor in Council, prescribe the charges to be made for any record or log book required under this section. 1948, c. 56, s. 13, *part.*

TESTING LABORATORIES

163. The Minister may, out of any moneys appropriated ^{Testing laboratories.} for the purpose, establish, maintain and operate a laboratory or laboratories for the purpose of testing or examining hoisting ropes or other appliances used about a mine and, under rules and regulations made by the Lieutenant-Governor in Council, may provide for,

- (a) the management and operation of such laboratory or laboratories;
- (b) the charges to be paid for services performed in such laboratory or laboratories;
- (c) such other purposes as to the Lieutenant-Governor in Council may seem proper. 1948, c. 56, s. 13, *part*.

PARTY WALL

164.—(1) Except as provided in rule 33 of section 162, or ^{Party walls, thickness of.} unless the owners agree to dispense therewith, in all mining operations there shall be left between all adjoining properties a party wall at least fifteen feet thick, being seven and one-half feet on each property, to the use of which the adjoining owners shall be entitled in common.

(2) The owners shall be entitled to use such party wall in ^{Use in common.} common on surface as roadway for all purposes, and such roadway shall not be obstructed by the throwing of soil, rock or other material thereon, or in any other way, and any person obstructing the same in addition to any civil liability shall be liable to a penalty of not more than \$10 for every day such obstruction continues.

(3) Any such adjoining owners may, in any case, apply to the Judge, who may make an order dispensing ^{Dispensing with.} with such party wall or roadway, or providing for the working of any material therein, or otherwise as he may deem just.

(4) When the owner of a mine or mining property has ^{Examination of party wall.} reason to believe that a breach has been made in the party wall between his own and an adjoining property or that a trespass has been committed with respect thereto, the Judge may upon application to him authorize a competent and disinterested person to examine such party wall and for such purpose enter the mine or mining property with an assistant or assistants and use if necessary the workings and appliances thereof, and the person so appointed shall immediately after such examination report in writing his findings to the Judge and the time when such examination shall be made and the

cost thereof and any damage resulting therefrom shall be fixed by the order of the Judge.

Order for closing breach in party wall.

(5) Where a breach has been made in a party wall of a mine by the owner of an adjoining mine or by his workmen, servants or agents without permission of the owner of such first-mentioned mine or the authority of the Mining Court or the Department, the Judge upon the application of the first-mentioned owner may make an order directing the owner of the adjoining mine to permanently close such breach or do such other things as the Judge may deem necessary or advisable to prevent water flowing into the mine of the applicant, and if work has been discontinued in the adjoining mine, or if for any other reason he deems it expedient, the Judge may authorize the applicant to enter upon the adjoining mine and into the works thereof and to erect bulkheads therein and do all such other things or make such use of the works of the adjoining mine as the Judge may deem necessary or advisable for the purpose of protecting the mine of the applicant and his workmen and employees from damage or danger from accumulations of water in the adjoining mine.

Varying order.

(6) The Judge for good cause shown and on such terms as may seem just may by subsequent order at any time change, supplement, alter, vary or rescind any order made under the authority of this section. 1948, c. 56, s. 13, *part.*

NOTICE OF NON-FATAL ACCIDENTS

Notice of accident to be sent to Inspector.

165. Where, in or about any mine, metallurgical works, quarry, sand, clay or gravel pit, any accident occurs which causes fracture or dislocation of any bones of the body, or any other injury which in the opinion of the attending physician may result in the injured person being incapacitated for work for at least seven days, to any person employed therein, the owner, agent, manager or superintendent shall within three days of the accident send notice in writing to the Inspector resident in that part of Ontario in which the mine or works are situate on the form prescribed for such purpose. 1948, c. 56, s. 13, *part.*

NOTICE OF SPECIAL OCCURRENCES

Idem.

166.—(1) Where in or about any mine,

- (a) any accident involving the hoist, sheaves, hoisting rope, shaft or winze conveyances, or shaft or winze timbering;
- (b) any inrush of water from old workings or otherwise;

- (c) any failure of an underground dam or bulkhead, as defined by rule 39 of section 162;
- (d) any outbreak of fire below ground or any outbreak of fire above ground if it endangers any structure of the mine plant;
- (e) any premature or unexpected explosion or ignition of explosives;
- (f) any asphyxiation affecting a partial or total loss of physical control;
- (g) any inflammable gas in the mine workings; or
- (h) any unexpected and non-controlled extensive subsidence or caving of mine workings,

occurs, whether or not loss of life or personal injury is caused thereby, the owner, agent, manager or superintendent of the mine shall, within the twenty-four hours next after such occurrence, send notice in writing in duplicate to the District Inspector resident in that part of Ontario in which the mine is situate and shall furnish, upon request, such particulars in respect thereof as the Inspector may require.

(2) Where in or about any mine, an outbreak of fire occurs which endangers the health or safety of any person or persons and the services of the mine rescue stations are required, the owner, agent, manager or superintendent shall immediately notify the Rescue Station Superintendent and the District Inspector resident in that part of Ontario in which the mine is situate. Notice of occurrence of fire and need of rescue equipment.

(3) (a) Where a rockburst occurs whether or not loss of life or personal injury is caused thereby and the location of such rockburst is determined as being within the workings of any mine, the owner, agent, manager or superintendent of the mine shall, within the twenty-four hours next after the location of such burst has been determined, send notice in writing to the District Inspector resident in that part of Ontario in which the mine is situate and shall furnish, upon request, such particulars in respect thereto as the Inspector may require. Rockburst.

(b) A record of the occurrence of all rockbursts at a mine shall be kept showing, as far as possible, the time, location, extent of the burst, any injury to persons and any other information pertaining to the burst and such record shall be available at all times to the Inspector. 1948, c. 56, s. 13, *part*. Record of rockbursts.

OTHER NOTICES AND INFORMATION

167.—(1) The owner or agent shall give or cause the manager or superintendent of a mine to give written notice Written notice by owner or agent.

to the Chief Inspector and to the District Inspector resident in the district in which the mine is situate,

- (a) of the intended installation of an initial mine hoisting plant or power plant and the name and address of the person in charge of the operation at least fourteen days prior to the commencement of work on such installation, and the notice shall also give the lot, concession and township or the claim numbers of the ground on which operations are to commence and the specifications and layout of the headframe, buildings, hoist and equipment and power plant;
- (b) of the connection or reconnection of any mining electrical equipment with any source of electric energy controlled by any other person or persons at least fourteen days prior to such connection;
- (c) of the commencement or resumption after an interruption of one month or more, of mining operations within fourteen days after such commencement or resumption; and
- (d) of the closing down of the mine and that the requirements of subsection 1 of section 159 as to the fencing of the top of the shaft, entrances from the surface, pits and openings; the requirements of rule 59 of section 162 as to the disposal of explosives; the requirements of rule 267 of section 162 as to the abandonment of a shaft compartment for hoisting purposes and as to the removal and disposition of hoisting ropes; the requirements of clause *a* of rule 317 of section 162 as to the disconnection of the supply station from the power source and notification of same to Chief Inspector; and the requirements of clauses *a* and *b* of subsection 5 of section 169 as to the filing of plans and sections have been complied with within fourteen days of such closing down.

Information
for
Inspector.

(2) The owner, manager or superintendent of a mine shall furnish to the Inspector resident in that part of Ontario where the mine is situate, all information which the Inspector may require for the purposes of the returns of such Inspector. 1948, c. 56, s. 13, *part*.

STATISTICAL RETURNS

Statistical
returns by
owners or
agents of
mines.

168.—(1) For the purpose of their tabulation under the instructions of the Minister the owner or agent of every mine, quarry or other works to which this Act applies shall, on or before the 15th day of January in every year, send to the

Department a correct return for the year which ended on the 31st day of December next preceding, showing the number of persons ordinarily employed below and above ground respectively, and distinguishing the different classes and ages of the persons so employed whose hours of labour are regulated by this Act, the average rate of wages of each class and the total amount of wages paid during the year, the quantity in standard weight of the minerals dressed, and of the undressed mineral which has been sold, treated or used during such year, and the value or estimated value thereof, and such other particulars as the Minister may by regulation prescribe.

(2) The owner or agent of every metalliferous mine shall, ^{Monthly or quarterly} if required, make a similar return for the month or quarter at ^{returns.} the end of each month or quarter of the calendar year.

(3) Every owner or agent of a mine, quarry or other works ^{Penalty} who fails to comply with this section, or makes any return which is to his knowledge false in any particular, shall be guilty of an offence against this Act. 1948, c. 56, s. 13, *part*.

MINE PLANS

169.—(1) At every mine the owner or manager shall cause ^{Plans to be kept.} the following plans on a scale acceptable to the Chief Inspector to be kept up to a date not more than six months last past:

- (a) A surface plan showing the boundaries of the property, all lakes, streams, roads, railways, electric power transmission lines, main pipe lines, buildings, shaft openings, adits, open surface workings, diamond-drill holes, outcroppings of rock and dumps and tailing disposal sites.
- (b) Underground plans of each level showing all underground workings including shafts and tunnels, diamond-drill holes, dams and bulkheads, and each level plan shall be shown on a separate drawing.
- (c) Vertical mine sections at suitable intervals and at suitable azimuths, showing all shafts, tunnels, drifts, stopes, and other mine workings in relation to the surface including the location of the top of the bed-rock, surface of the overburden and the bottom and surface of any known water course or body of water, and each section shall be shown on a separate drawing.
- (d) Adequate ventilation plans, showing the direction and velocity of the main air currents, the location of permanent fans, ventilation doors and stoppings and connections with adjacent mines.

Idem.

(2) (a) The owner or manager at every mine in which electricity is used underground shall keep or cause to have kept up to a date not more than six months last past, an adequate plan or diagram showing on a suitable scale the following information:

- (i) The position of all fixed electrical apparatus in the mine.
- (ii) The routes of all fixed power feeders and fixed branch feeders properly noted and referenced.
- (iii) The rating of all electrical feeder control apparatus and equipment.

(b) Such plans or diagrams shall be available to the Inspector at all times and copies of such plans or diagrams shall be furnished him upon request.

Marking subsequent progress on plan.

(3) (a) On any examination or inspection of a mine the owner, manager or superintendent shall, if required, produce to the Inspector or other person authorized by the Minister or the Deputy Minister, all plans and sections of the workings, referred to in subsections 1 and 2.

(b) The owner, manager or superintendent shall, if required by the Inspector or other person authorized by the Minister or the Deputy Minister, cause to be marked on such plans and sections the progress of the mine up to the time of the examination or inspection, and shall furnish him with a copy or tracing thereof.

Plan of working mines to be filed.

(4) Certified copies of the plans required by clause *b* of subsection 1 and mine sections showing all shafts as required by clause *c* of subsection 1 shall be made and filed in the Department on or before the 31st day of March in each year, showing the workings of the mine up to and including the 31st day of December next preceding.

Plans to be filed before abandonment.

(5) (a) Before a mine or any part of a mine is abandoned, closed down, or otherwise rendered inaccessible all underground plans and sections, referred to in clauses *b* and *c* of subsection 1, shall be brought up to date and a certified copy filed in the Department.

(b) Before all work at a mine has ceased, the surface plan referred to in clause *a* of subsection 1, showing all openings to underground workings, shall be brought up to date and a certified copy filed in the Department.

Responsibility of owner.

(6) The owner of every mine, quarry or other works to which this section applies shall be responsible for compliance with the provisions thereof and every owner or other person

who fails to comply with any of the provisions of this section, or who produces to the Inspector or other authorized person, or files or causes to be produced or filed a plan which to his knowledge is false in any particular, shall be guilty of an offence against this Act.

(7) Every such plan shall be treated as confidential information for the use of the officers of the Department and shall not be exhibited nor shall any information contained therein be imparted to any person except with the written permission of the owner or agent of the mine. 1948, c. 56, s. 13, *part.* Plans to be treated as confidential.

POWERS AND DUTIES OF INSPECTOR

170.—(1) It shall be the duty of every Inspector, and he shall have power, Powers of Inspectors.

- (a) to make such examination and inquiry as he may deem necessary to ascertain whether the provisions of this Act are complied with, and to give notice to the owner or agent in writing of any particulars in which he considers such mine or any portion thereof, or any matter, thing or practice to be dangerous or defective or contrary to the provisions of this Act, and to require the same to be remedied within the time named in such notice;
- (b) to enter, inspect and examine any mine and any portion thereof at any reasonable time by day or night, but so as not to unnecessarily impede or obstruct the working of the mine;
- (c) to order the immediate cessation of work in and the departure of all persons from any mine or portion thereof which he considers unsafe, or to allow persons to continue to work therein on such precautions being taken as he deems necessary; and
- (d) to exercise such other powers as he may deem necessary for ensuring the health and safety of miners and all other persons employed in or about mines, smelters, metallurgical and mining works.

(2) It shall be the duty of every Inspector to make a report of every examination and inquiry made in the course of his duty during the year to the Minister, the Deputy Minister or the Chief Inspector as required by the circumstances immediately upon the completion of such examination or inquiry. 1948, c. 56, s. 13, *part.* Reports of Inspectors.

171.—(1) The Minister may direct the Inspector to make a special report with respect to any accident in or about a Special report.

mine which has caused the loss of life or injury to any person, or with respect to any condition in or about a mine.

Inspectors
may take
evidence.

(2) In conducting the inquiry the Inspector shall have power to compel the attendance of witnesses and the production of books, documents and things, and to take evidence upon oath. 1948, c. 56, s. 13, *part*.

Offence.

172.—(1) Non-compliance with any written order of an Inspector issued in accordance with section 170 shall be deemed an offence against Part VIII.

Idem.

(2) Failure to give written notice of the completion of any work in accordance with any written order of an Inspector issued under section 170 shall be deemed an offence against Part VIII. 1948, c. 56, s. 13, *part*.

PART IX

REFINERY PROVISIONS

Interpreta-
tion.

173. In this Part, "refinery" means any apparatus or equipment which may be used for the refining, retorting, smelting, assaying or treating by any other method, of any ore, mineral or substance for the purpose of recovering or determining the quantity of gold, platinum, silver or any other precious metal therefrom or therein. 1939, c. 27, s. 24, *part*.

Refinery
licence.

174. No person shall own, operate, use or have any refinery in his possession, under his control or upon any property of which he is the owner, licensee, lessee or tenant unless a refinery licence has been granted in respect of such refinery, provided that no refinery licence shall be required in respect of a refinery for which a certificate of exemption has been issued. 1939, c. 27, s. 24, *part*.

Powers of
Minister as
to refinery
licences.

175.—(1) The Minister may,

- (a) issue and renew refinery licences and certificates of exemption;
- (b) refuse to issue or renew a refinery licence or certificate of exemption, or suspend, cancel or revoke any refinery licence or certificate of exemption for any reason which he deems sufficient in the public interest;
- (c) prescribe the forms of refinery licences, certificates of exemption, applications therefor and renewals thereof; and
- (d) prescribe the fee payable upon the issue and renewal of refinery licences and certificates of exemption.

(2) Every refinery licence and certificate of exemption shall expire on the 31st day of March next following the issue thereof and every renewal of a refinery licence or certificate of exemption shall expire on the 31st day of March next following the expiration of the refinery licence or certificate of exemption or the last renewal thereof. 1939, c. 27, s. 24, *part*. Term of licence and certificate of exemption.

176.—(1) A certificate of exemption may be issued in respect of a refinery where the Minister is satisfied that such refinery is not maintained or used for the refining, retorting, smelting, assaying or treating of any ore, mineral or substance for the purpose of recovering or determining the quantity of gold, platinum, silver or any other precious metal therefrom or therein or is used only for educational purposes. Certificate of exemption.

(2) No person who owns or has in his possession, under his control or upon any property of which he is the owner, licensee, lessee or tenant a refinery in respect of which a certificate of exemption has been issued shall permit such refinery to be operated or used nor shall he or any other person operate or use such refinery for the refining, retorting, smelting, assaying or treating of any ore, mineral or substance for the purpose of recovering or determining the quantity of gold, platinum, silver or any other precious metal therefrom or therein. 1939, c. 27, s. 24, *part*. Use of refinery.

177. Every person who violates any of the provisions of this Part shall be liable to a penalty of not less than \$10 and not more than \$500 or to imprisonment for a term of not more than one year, or to both fine and imprisonment. 1939, c. 27, s. 24, *part*. Penalty.

178. This Part shall apply notwithstanding that the owner or operator of a refinery is the holder of a licence issued under *The Unwrought Metal Sales Act* or any other Act. 1939, c. 27, s. 24, *part*. Application of Part. Rev. Stat., c. 404.

179. The Minister may appoint any person to conduct an inquiry into any charge or complaint that any person has violated or failed to observe any of the provisions of this Part, or into any matter or thing connected with or arising out of the operation of this Part, and such person shall have the same power to enforce the attendance of witnesses and to compel them to give evidence and produce documents and things as is vested in any court in civil cases. 1939, c. 27, s. 24, *part*. Commission of inquiry.

PART X

OFFENCES, PENALTIES AND PROSECUTIONS

Offences.

180. Every person who,

- (a) prospects, occupies or works any Crown lands or mining rights for minerals otherwise than in accordance with the provisions of this Act; or
- (b) wilfully defaces, alters, removes or disturbs any post, stake, picket, boundary line, figure, writing or other mark lawfully placed, standing or made under this Act; or
- (c) wilfully pulls down, injures or defaces any rules or notice posted up by the owner or agent of a mine; or
- (d) wilfully obstructs the Judge or any officer appointed under this Act, in the execution of his duty; or
- (e) being the owner or agent of a mine refuses or neglects to furnish to the Judge or to any person appointed by him or to any officer appointed under this Act the means necessary for making an entry, inspection, examination or inquiry in relation to any mine, under this Act other than Part VIII; or
- (f) unlawfully marks or stakes out in whole or in part a mining claim, a placer mining claim, or an area for a boring permit; or R.S.O. 1937, c. 47, s. 171, cls. (a-f).
- (g) wilfully acts in contravention of the provisions of this Act other than Part VIII or Part IX in any particular not hereinbefore set forth; or R.S.O. 1937, c. 47, s. 171, cl. (g); 1939, c. 27, s. 25.
- (h) wilfully contravenes any provision of this Act or any rule or regulation made thereunder for the contravention of which no other penalty is provided; or
- (i) wilfully makes any material change in the wording or numbering of a miner's licence after issue of the same; or
- (j) attempts to do any of the acts mentioned in the foregoing clauses,

shall be guilty of an offence against this Act and shall be liable to a penalty of not more than \$20 for every day upon which such offence occurs or continues. R.S.O. 1937, c. 47, s. 171, cls. (h-j).

181. Every person who wilfully neglects or refuses to obey any order or award of the Judge, except for the payment of money, shall, in addition to any other liability, be liable to a penalty of not more than \$250, and upon conviction thereof shall be liable to imprisonment for a term of not more than six months unless such penalty and costs are sooner paid. R.S.O. 1937, c. 47, s. 172.

Disobeying
order or
award of
Judge.

182.—(1) No person who,

Use of word
"Bureau"
prohibited.

- (a) carries on the business of mining or dealing in mines, mining claims, mining lands, or mining rights, or the shares, stocks, or bonds of a mining company; or
- (b) acts as broker or agent in or for the disposal of any mines, mining claims, mining lands, or mining rights, or of any such shares, stocks or bonds; or
- (c) offers or undertakes to examine or report on a mine, mining claim, mining land or mining rights,

shall use the word "Bureau" as the name or title or part of the name or title under which he acts or carries on business.

(2) Every person who contravenes the provisions of this section shall be liable to a penalty of not more than \$20 for every day upon which such offence occurs or continues. R.S.O. 1937, c. 47, s. 173.

Penalty.

183.—(1) An owner, agent or other person who is guilty of an offence against Part VIII shall be liable to a penalty of not more than \$1,000. 1948, c. 56, s. 14 (1).

Penalty
for offence
against
Part VIII.

(2) Where the Deputy Minister or an inspector has given written notice to an owner or agent or any person engaged or employed in or about a mine that an offence has been committed against Part VIII, such owner or agent or other person shall be liable to a further penalty of not more than \$100 for every day upon which the offence continues after such notice. R.S.O. 1937, c. 47, s. 174 (3).

Additional
penalty for
continuing
offence.

(3) An owner, agent or other person shall upon conviction be liable to imprisonment for a term of not more than three months unless the penalty and costs are sooner paid. 1948, c. 56, s. 14 (2).

Imprison-
ment.

(4) Where the offence is one which might have endangered the safety of those employed in or about the mine or caused serious personal injury or dangerous accident, and was committed wilfully by the personal act, default or negligence of the accused, every person who is guilty of an offence against Part VIII shall, in addition to or in substitution for any

Imprison-
ment of
offender
against
Part VIII
in certain
cases.

pecuniary penalty that may be imposed, be liable to imprisonment with or without hard labour for a term of not more than three months. R.S.O. 1937, c. 47, s. 174 (5).

Instituting
prosecutions
for offences.

184.—(1) No prosecution shall be instituted for an offence against Part VIII or Part IX or any regulation made in pursuance thereof except,

(a) by an inspector; or

(b) by the direction of the county or district Crown attorney; or

(c) by the leave in writing of the Attorney-General,

or for an offence against any other of the provisions of this Act or of any rule or regulation made in pursuance thereof, except,

(d) by or by leave of the Mining Court or a recorder;

(e) by leave of the Attorney-General; or

(f) by direction of the county or district Crown attorney.
R.S.O. 1937, c. 47, s. 175 (1); 1939, c. 27, s. 26 (1).

When person
not actual
offender not
liable.

(2) No person not being the actual offender shall be liable in respect of such offence, if he proves that he did not participate in the contravention of the rule or provision for a breach of which he is charged and that he was not to blame for such breach and that according to his position and authority he took all reasonable means in his power to prevent such breach and to secure compliance with the rules and provisions of Part VIII or Part IX. R.S.O. 1937, c. 47, s. 175 (2); 1939, c. 27, s. 26 (2).

Onus of
proof.

(3) The burden of proving that any rule in section 162 has been suspended shall be upon the person charged with a violation thereof and any such suspension may be proved by the evidence or certificate of an inspector. 1939, c. 27, s. 26 (3).

Procedure on
prosecutions.

185. Except as to offences against section 14 every prosecution for an offence against or for the recovery of a penalty imposed by or under the authority of this Act shall take place before a magistrate or two justices of the peace having jurisdiction in the county or district in which the offence is committed, or before the Mining Court, and save as herein otherwise provided, *The Summary Convictions Act* shall apply to every such prosecution. R.S.O. 1937, c. 47, s. 176 (1); 1939, c. 27, s. 27.

Rev. Stat.,
c. 379.

PART XI

ENLISTMENT FOR ACTIVE SERVICE

186. All other provisions of this Act shall be subject to the provisions of this Part. 1939 (2nd Sess.), c. 5, s. 4, *part.* Application of Part.

187. The miner's licence of a person who has enlisted or enrolled for active service at home or abroad against the King's enemies shall be deemed to be subsisting and in force until six months after the date of his discharge from such service, or the 31st day of March following such date of discharge, whichever is the later date. 1939 (2nd Sess.), c. 5, s. 4, *part.* Miner's licence of enlisted licensee.

188.—(1) Subject to subsections 2, 3 and 4, forfeiture or loss of rights under subsection 1 of section 88, except clauses *a* and *b*, shall be avoided if the recorded holder of an interest in a mining claim has enlisted or enrolled for active service at home or abroad against the King's enemies. Effect of enlistment on forfeiture.

(2) In the case of non-performance of work the period currently to be performed at the date of enlistment shall be performed not later than one year from the date of discharge from active service, two years from such date in the case of the next succeeding period, three years from such date in the case of a second succeeding period, four years from such date in the case of a third succeeding period and five years from such date in the case of a fourth succeeding period. Performance of work.

(3) Where all the work required to be performed upon a claim has been performed prior to the date of enlistment, application for a patent or lease shall be applied for not later than one year from the date of discharge from active service. Application for patent.

(4) The report required by subsection 3 of section 80 shall be made not later than ten days after the expiration of the time permitted for the performance of the work by this section. 1939 (2nd Sess.), c. 5, s. 4, *part.* Filing report.

(5) Where the recorded holder has enlisted or enrolled for active service and subsequently transfers his interest, subsections 2, 3 and 4 shall apply *mutatis mutandis* to the transferee, but the time for performing work and making application for patent or lease shall be computed from the date of such transfer. 1945, c. 13, s. 7. Where recorded holder on active service.

189.—(1) Where the applicant for a patent or lease of a mining claim is a person who enlisted or enrolled for active service at home or abroad against the King's enemies, he shall not be required to pay the purchase money or the first year's Purchase money or rental.

rental as the case may be, provided that where he is not the sole applicant this exemption shall apply only to a part of the purchase money or the first year's rental, as the case may be, which is in proportion to his interest in the claim.

Section not to apply to more than three claims.

(2) In the case of each person who has enlisted or enrolled for active service this section shall apply to not more than three claims whether or not he is the sole owner thereof.

Section to apply to personal representatives and beneficiaries.

(3) The exemptions provided by this section shall apply to the personal representatives or beneficiaries of any person coming under subsection 1. 1939 (2nd Sess.), c. 5, s. 4, *part.*

190. Sections 187 to 189 shall apply only,

Time of acquiring interest.

(a) where the ownership or interest in a mining claim of a person on war service was acquired prior to the time such person enlisted or enrolled for active service; and

Notice to recorder.

(b) where the recorder of the mining division in which the claims are situate has notice that the holder of such claims or of an interest therein has enlisted or enrolled for active service. 1939, c. 5, s. 4, *part.*

PART XII

GENERAL PROVISIONS

LIEN FOR WAGES

Application of Rev. Stat., c. 227.

191.—(1) Save as herein provided *The Mechanics' Lien Act* shall apply to mines, mining claims, mining lands and works connected therewith.

Registration where lands and mining rights have not been patented.

(2) If the lands and mining rights have not been patented the registration provided for in *The Mechanics' Lien Act* shall be in the office of the recorder.

Lien where claim for wages.

Rev. Stat., c. 227.

(3) When the claim is for wages in connection with a mine, mining claim, mining lands, or works connected therewith in addition to the rights and remedies afforded by *The Mechanics' Lien Act*, the claimant shall have a lien upon any other property of the owner in or on such mine, mining claim, mining land or works, for a sum not exceeding thirty days wages, and this claim may be enforced under such Act.

Cancellation of claim.

(4) When the Judge is satisfied that any claim for lien recorded as provided in this section is not made in good faith or is made for some improper purpose or when the owner is unduly embarrassed thereby, he may make an order cancelling

the lien upon such terms as to security or otherwise as he may deem proper.

(5) A lien upon unpatented lands shall not affect the right of the Crown. R.S.O. 1937, c. 47, s. 177.

Lien on unpatented lands not to affect rights of Crown.

PRESERVATION OF PEACE

192. The Lieutenant-Governor in Council may declare by proclamation that *The Public Works Peace Preservation Act*, being chapter 36 of the Revised Statutes of Ontario, 1914, shall be in force in any mining division or in any defined locality therein, and upon and after the date named in any such proclamation section 1 and sections 3 to 9 of that Act shall take effect within the mining division or locality designated in the proclamation, and the provisions of that Act shall apply to all persons employed in any mine or in mining within the limits of such mining division or locality in the same manner and to the same extent as nearly as may be as if the persons so employed had been specially mentioned and referred to in such Act. R.S.O. 1937, c. 47, s. 178.

Powers of Lieutenant-Governor in Council. Rev. Stat., 1914, c. 36.

EXPLORATORY DRILLING

193. The Minister may, out of any money appropriated for the purpose, purchase such diamond drills as he may deem necessary for use in prospecting for ores or minerals under rules and regulations made by the Lieutenant-Governor in Council, which may provide,

Purchase of drills for prospecting purposes.

- (a) for the control and working of the drills under the direction of a person employed for the purpose by the Department;
- (b) for the payment of freight charges where the drills are used upon mines or land other than those owned by the Crown;
- (c) as to applications for use of the drills and the method of dealing therewith;
- (d) as to charges for use of the drills and for damages thereto, or wear and tear connected therewith,

and otherwise as to the Lieutenant-Governor in Council shall seem proper. R.S.O. 1937, c. 47, s. 179.

194. The Minister, out of moneys appropriated for the purpose, may establish, maintain and operate assaying and testing laboratories for sampling, assaying, testing, analysing or determining rocks, ores, minerals and other substances. 1949, c. 59, s. 10.

Assaying and testing laboratories

RIGHTS AND EASEMENTS

Rights
over other
lands that
may be
conferred by
Judge,

195.—(1) Where required for or in connection with the proper working of a mine, mill for treating ore, or quarry, the owner, lessee or holder of it or the person entitled to work the same, may, subject as hereinafter provided, obtain and have vested in him by order or judgment of the Judge made after hearing such parties interested as may appear, or on appeal from him,

constructing
ditches,
flumes, etc.,
for water;

(a) the right to open, construct, put in, maintain and use ditches, tunnels, adits, pipes, conduits, flumes and other works through, over or upon any land for the drainage, conveyance or passage of water;

discharging
water on
lands;

(b) the right to discharge water upon any land or by, through or into any existing means of drainage, whether natural or artificial;

draining
or diverting
waters in
streams, etc.;

(c) the right to drain off, lower or divert the water of any lake, pond, river, stream or watercourse, or any other water, notwithstanding that the water or part thereof may be on the land of or owned by any other person or that any other person may have rights or interests in or to such water or the use thereof;

storing
water,
flooding;

(d) the right to collect and dam back water, notwithstanding that it may overflow other land;

to take
water;

(e) the right to take or divert and use for or in connection with the working of his own mine or quarry and bring thereto for such use any specified water, and to construct and maintain dams and other works and do all other things necessary or convenient therefor;

rights
of way for
roads, tram-
ways, aerial
tramways,
etc.;

(f) rights of way or passage through or over any land or water, and the right to construct, improve, maintain and use suitable roads, tramways, aerial tramways, channels, waterways, passages and other means of transit and transportation upon, through or over any land or water, together with such other rights of entry upon and use of land and water as may be necessary or convenient therefor;

transmission
of electricity;

(g) the right to transmit electricity or any other kind of power, or have it transmitted, through or over any land or water in any form or manner and to do everything necessary or convenient therefor;

entering
upon and
using other
lands;

(h) the right to enter upon and use for or in connection with the working of his own mine or quarry a specified area of other land;

- (i) the right to deposit tailings, slimes or other waste ^{depositing tailings and waste.} products upon any land, or to discharge the same into any water, the effect of such deposit or discharge not being injurious to life or health.

(2) No such right shall be granted unless any injury or ^{Compensation.} damage caused to any other person thereby can be adequately compensated for, nor unless in all the circumstances it seems reasonable and fitting to grant the right, nor until in the case where injury or damage has already been suffered, compensation has been determined by the Judge, and the amount of the award paid, and in the exercise of any right so granted no unnecessary injury or damage shall be done to the land, property, rights or interests of other persons, and all injury and damage which may be caused to any person by the granting and exercise of any right obtained under this section shall be fully compensated for.

(3) The order or judgment granting the right shall fix such ^{How fixed.} compensation, or shall provide for the ascertainment thereof and shall contain any provisions that may be deemed proper for securing the same and for protecting the rights and interests of any person whose land, property, rights or interests are affected or endangered, and if deemed proper may require the applicant to make grants or concessions to or construct works or do any other thing for, or for the benefit of, any such person or his land or property, and such order or award may in all cases be upon such terms, and may grant the right upon such conditions and for such time as may be deemed meet.

(4) In every application for such an order or judgment ^{Material to be filed on application.} the applicant, in addition to anything else required or directed, shall file in duplicate with the Mining Court a clear and precise statement of the right or rights being applied for, of the land or property affected, and the owner or owners thereof so far as the same can be ascertained, a map or plan of the locality showing the land and water involved, and definite and detailed plans and specifications of the works or things proposed to be constructed or done, and for the purpose of preparing the same the Mining Court may authorize the applicant, his engineers and assistants, to enter upon the land of any other person and make such examinations and measurements as may be necessary, and such statement, map or plan, and plans and specifications may, by order be amended or altered or modified at any stage of the proceedings. The Judge may give directions as to the notice to be given to the parties interested, the time and manner of service, and the particulars to be furnished to such parties respectively.

(5) All rights and benefits, and burdens and obligations, ^{Rights conferred to run with the lands.} created under this section shall run with and be appurtenant

and incident to the mine, quarry, mining lands, mining rights and the other land, property, rights and interests in respect of which they are created.

Application
to patented
lands.

(6) This section shall apply to and against patented, as well as unpatented land, rights and interests, whether owned or held by a corporation or company or a mining or other partnership or by a private person, but nothing contained therein or done thereunder shall, without the consent of the Minister, affect any Crown lands or any public interest.

Judge may
change order
or award.

(7) The Judge for good cause shown and on such terms as may seem just, may by subsequent order or award at any time change, supplement, alter, vary or rescind any order or award made under the authority of this section.

Rights
not to be
exercised
until after
expiration
of time for
appeal.

(8) Rights granted under this section shall not be exercised until the time for appealing from the order or award granting the rights has expired, or, where an appeal is entered, until the appeal is disposed of, but from and after such time, subject to any restriction or postponement provided for in the order or award, the person to whom any such right is granted may enter upon any land or property and exercise the right so granted, and any person who after such time obstructs the exercise of any such right or wilfully neglects or refuses to obey any order or award made under this section shall be guilty of an offence against this Act, and, in addition to any other liability, shall be liable to a penalty of not more than \$250, for each day such obstruction, neglect or refusal continues. R.S.O. 1937, c. 47, s. 181.

Offence
and penalty.

REGULATIONS

Lieutenant-
Governor in
Council may
make regula-
tions.

196.—(1) The Lieutenant-Governor in Council may make such regulations as he may deem necessary providing for,

- (a) the opening, construction, maintenance and use of roads to, through or over mining claims, mining locations or lands heretofore or hereafter sold or granted as mining lands or recorded as mining claims or locations, and for the opening, construction, maintenance and use of ditches, aqueducts or raceways through, over or upon such claims, locations or land for the conveying and passage of water for mining purposes;
- (b) to meet cases which may arise for which no provision is made in the Act, or when he deems the provision made to be ambiguous or doubtful;
- (c) the imposition of penalties of not more than \$200 or of not more than three months imprisonment for the violation of any such regulations;

- (d) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1939, c. 27, s. 28, *part.*

(2) Notwithstanding anything in this Act, in special circumstances the Minister may, subject to the approval of the Lieutenant-Governor in Council, issue a licence of occupation, lease or patent of any mining lands or mining rights on such terms and conditions as he may deem expedient. 1947, c. 66, s. 16 (1).

197. With the consent of the Lieutenant-Governor in Council, and on such terms as he may see fit, any company authorized to supply electrical power or energy or compressed air or both may from time to time construct, maintain and operate transmission lines, air pipe lines, substations and other conveniences for the transmission of electrical power or energy or compressed air, or both, in and through any mining division, and for any of such purposes may enter upon, take and use any mining lands or any privilege or easement required by such company for such purposes without the consent of the owner thereof, but subject to the payment of such compensation or annual rent for the privilege or easement required and authorized as may be determined by the Lieutenant-Governor in Council, and the Lieutenant-Governor in Council may from time to time revoke or vary the terms upon which any right conferred under this section may be exercised. R.S.O. 1937, c. 47, s. 183.

FEES

198. Fees shall be payable under this Act according to the tariff in the schedule hereto, and except as otherwise mentioned shall be for the use of the Province of Ontario. R.S.O. 1937, c. 47, s. 184.

CANCELLATION OF PATENTS

199. Whenever a patent or lease of mining lands or mining rights is by proceedings in the Supreme Court at the instance of the Crown repealed or avoided, such lands and mining rights shall thereupon become and be withdrawn from exploration, discovery, staking out, lease, or sale, and every discovery upon and claim to such lands or mining rights and to the mines or minerals on, in or under such lands made or existing at any time before the repeal or avoidance of the patent or lease shall become and be absolutely null and void, and such lands, mining rights, mines and minerals shall be thenceforth vested in the Crown freed and discharged of and from every claim. R.S.O. 1937, c. 47, s. 185.

FORFEITURE OF LEASES

Forfeiture
of leases.

200.—(1) Where the Minister finds that no proof has been submitted that the expenditure for work, as required by *The Mines Act*, being chapter 36 of the Revised Statutes of Ontario, 1897, or any other Act, upon the lands leased has been made, the Minister by registered letter directed to the lessee or his assignee at his last known address as recorded in the Department, may call upon the lessee or his assignee to submit such proof by way of affidavit or otherwise within any period not less than thirty days named in the letter, and if after the expiration of such period such proof has not been submitted the Minister may by notice in *The Ontario Gazette* declare such lease to be forfeited and void and thereupon all the interests of the lessee, his heirs, executors, administrators and assigns, shall be deemed to have ceased and determined and the land included in such lease shall be revested in the Crown freed and discharged from every claim. R.S.O. 1937, c. 47, s. 186 (2); 1948, c. 56, s. 18 (2).

Minister
may extend
time.

(2) Notwithstanding anything in *The Mines Act*, being chapter 36 of the Revised Statutes of Ontario, 1897, or any other Act, or the expiration of any period of time therein stipulated or the failure to comply with any requirements of any such Act, the Minister may extend the time for the performance of any work upon a mining location leased or patented under the authority of *The Mines Act*, being chapter 36 of the Revised Statutes of Ontario, 1897, and the filing of any proof thereof required, provided, in the case of lease only, that upon failure to perform such work or file such proof within the extended time the lease may be cancelled as provided by subsection 1. 1939, c. 27, s. 29; 1942, c. 34, s. 22 (2).

Proof of
work per-
formed.

(3) Upon proof of the required work being submitted within such extended time, the Minister may issue a certificate in accordance with the facts and such certificate may be registered in the proper registry or land titles office. 1942, c. 34, s. 22 (3).

DEFAULT OF CO-OWNERS, ETC.

Default
by one of
several co-
owners or
co-lessees.

201.—(1) Upon the failure of any one or more of several co-owners or co-lessees of a location to contribute his or their proportion of the expenditures or of the rental necessary to hold such location, the Judge, upon application of the co-owner or co-owners or co-lessee or co-lessees who have performed the labour or made the improvements or paid the rent as required by the lease of the mining lands, may order any such delinquent co-owner or co-lessee, or in the case of his death, his personal representative, to make the necessary pay-

ment within six months from the date of such order or such further extension as the Judge may upon application order.

(2) The order may be served in such a manner as the Judge may direct, and if at the expiration of the period fixed by the order, or such further time as may have been ordered by the Judge, it appears to the Judge that payment has not been made in accordance therewith, the Judge may make an order vesting the interest of the delinquent co-owner or co-lessee in the co-owners or co-lessees who have made the expenditures and paid the rent.

(3) Where any such delinquent co-owner or co-lessee has died either before or after default in respect of his share, and no person has taken out administration of his estate, or has obtained probate of his will, any order made under this section may be directed to and served upon his heirs. R.S.O. 1937, c. 47, s. 187 (1-3).

(4) For the purpose of this section an incorporated company and a shareholder therein shall be deemed to be co-owners or co-lessees of the lands of such company.

(5) An order made against an incorporated company under this section shall be directed to such company only. 1939, c. 27, s. 30.

MINERAL RIGHTS UNDER ROADS

202.—(1) The corporation of any county or township in that part of Ontario lying south of the French River, Lake Nipissing and the River Mattawan wherever minerals are found, may sell or lease, by public auction or otherwise, the right to take minerals found upon or under any roads over which the township or county has jurisdiction, if considered expedient so to do.

(2) No such sale or lease shall take place until after due notice of the intended by-law has been posted up in six of the most public places in the immediate neighbourhood of such road for at least one month previous to the time fixed for considering the by-law.

(3) The deed of conveyance or lease to the purchaser or lessee under the by-law shall contain a proviso protecting the road for public travel and preventing any user of the granted rights which would interfere with public travel.

(4) (a) In the remaining portions of Ontario the mines, minerals and mining rights in, on or under all common and public highways and road allowances shall be and are hereby vested in the Crown, and may be sold, leased or otherwise disposed of under this Act.

(b) Where any mining location or mining lands adjoin a common and public highway or road allowance, and the mineral vein or deposit thereon extends into or under such highway or road allowance, the owner or owners thereof shall have the right to purchase or lease the mines, minerals and mining rights in, on or under the same, subject to this Act, or where there are mining locations or mining lands on both sides of such highway or road allowance such rights shall accrue to the owner or owners on both sides thereof as respects the half of such highway or road allowance adjoining his or their lands.

(c) This subsection shall not apply to highways on lands granted before the 1st day of May, 1904, by the Crown under this Act, or in the grant whereof the mines and minerals were not reserved to the Crown.

Patent or
lease to
protect
public travel.

(5) The patent or lease of such mines, minerals and mining rights shall contain a proviso protecting the road for public travel and preventing any user of the granted rights which would interfere with public travel unless a road in lieu thereof has been provided and accepted by the municipal corporation having control of the road.

Previously
acquired
rights
preserved.

(6) Subsections 4 and 5 shall not affect any rights acquired from or any agreement made or entered into with any municipal corporation under this section prior to the 1st day of May, 1904. R.S.O. 1937, c. 47, s. 188.

Voluntary
surrender
of mining
lands.

203. The owner, lessee or licensee of any mining lands or mining rights granted under this Act or any other Act may voluntarily surrender such lands or mining rights to the Crown and thereupon the Minister may cause a notice of determination to be filed in the proper land titles or registry office and thereafter such lands or mining rights shall be open for prospecting, staking out, sale or lease. 1948, c. 56, s. 19.

SCHEDULE

THE MINING ACT

Schedule of Fees

(Section 198)

- 1. For a miner's licence or renewal thereof for an individual. (See sections 26, 198)..... \$ 5.00
- 2. For an individual miner's licence issued on or after 1st October in any year (See sections 26, 198)..... 3.00
- 3. The fee for a miner's licence or renewal thereof for a duly incorporated company, or a company licensed under *The Extra-*

provincial Corporations Act to carry on business in Ontario, shall be based on the authorized capital, according to the following scale:

(a) Where the authorized capital is less than \$50,000 or 50,000 shares of no par value.....	10.00
(b) Where the authorized capital is \$50,000 or 50,000 shares of no par value or in excess thereof, but less than \$1,000,000 or 1,000,000 shares of no par value....	25.00
(c) Where the authorized capital is \$1,000,000 or 1,000,000 shares of no par value or in excess thereof, but does not exceed \$3,000,000 or 3,000,000 shares of no par value....	50.00
(d) Where the authorized capital exceeds \$3,000,000 or 3,000,000 shares of no par value.....	75.00
4. Whenever a miner's licence for a company is issued on or after 1st October in any year, the fee shall be only one-half the amount above specified.	
5. For recording each claim or boring permit staked out by a licensee on his own licence. (See sections 58, 198).....	5.00
6. For examining claim record book, per claim. (See sections 10, 198).....	.10
7. For inspecting any document filed with a mining recorder. (See sections 11, 198).....	.10
8. For recording a dispute, per claim. (See sections 61, 198).....	10.00
9. For certificate of record of claim. (See sections 63, 198).....	1.00
10. For certificate of performance of working conditions. (See sections 80, 198).....	1.00
11. On filing appeal from recorder's decision. (See sections 129, 198)	10.00
12. On filing appeal from Judge's decision. (See sections 146, 198)..	20.00
13. For filing transfer or agreement to sell or transfer the whole or part of a mining claim, quarry claim, boring permit, power of attorney, revocation of power of attorney, copy of writ of execution, discharge of execution or any other instrument affecting any recorded claim, right or interest, per claim (See sections 75, 109, 198).....	2.00
14. For a "Substituted Miner's Licence". (See sections 30, 198).....	1.00
15. For special renewal licence under section 89, to save forfeiture, twice the prescribed licence fee.	
16. For filing report of work under section 89, to save forfeiture, per claim.....	3.00
17. For certificate relieving from disqualification under section 56...	20.00
18. For recording extension of time for performing working conditions, affixing metal tags or making application and payment for patent or lease, per claim. (See sections 89, 198).....	3.00
19. For recording an order or judgment of the Judge, or made on appeal from him, per claim. (See sections 79, 198).....	1.00
20. For recording a certificate that interest in claim or other recorded right or interest is called in question, per claim. (See sections 79, 198).....	10.00
21. For copies or certified copies of any document, paper or record obtained from any officer, per folio.....	.10

22. For every affidavit sworn before a recorder..... .25
23. For abstract or copy of entries in record book respecting any mining claim, per folio (100 words) 10 cents, minimum charge per claim..... .25
24. For filing an application for a mining claim under section 61..... 5.00

R.S.O. 1937, c. 47, Sched. A; 1939, c. 27, s. 31; 1941, c. 32, s. 1; 1946, c. 55, s. 6; 1947, c. 66, s. 17; 1948, c. 56, s. 20.

CHAPTER 237

The Mining Tax Act**1. In this Act,**Interpreta-
tion.

- (a) "Department" means Department of Mines;
- (b) "Deputy Minister" means Deputy Minister of Mines; *New*.
- (c) "mine" means any opening in or working of the ground from or by which metalliferous ore or other solid mineral substance is taken, and includes the mining claim, mining location or other the whole parcel of land or mineral in which any such workings are being or have been carried on, but the term "mineral substance" or "mineral workings" does not include diatomaceous earth, limestone, marl, peat, clay, building stone or stone for ornamental or decorative purposes, or non-auriferous sand or gravel; R.S.O. 1937, c. 28, s. 1, cl. (a); 1941, c. 33, s. 1; 1947, c. 67, s. 1 (1).
- (d) "mine assessor" means any officer of such designation appointed under this Act and any other officer or person appointed or directed by the Minister to perform any duty or exercise any power or authority by this Act specified or provided to be performed or exercised by a mine assessor; R.S.O. 1937, c. 28, s. 1, cl. (b).
- (e) "mining rights" includes ores, mines, minerals and mineral rights of every kind; 1946, c. 56, s. 1.
- (f) "Minister" means Minister of Mines; R.S.O. 1937, c. 28, s. 1, cl. (c).
- (g) "municipality" has the same meaning as in *The Rev. Stat., Department of Municipal Affairs Act*; 1947, c. 67, s. 1 (2).^{c. 96.}
- (h) "output" when used in reference to a mine means all ores or other solid mineral or mineral-bearing substances raised, taken or gained from any mine or land in Ontario, and which have been sold, or have been removed from the mining premises where produced, or have been treated or partially treated at any

smelter, mill or refinery on the mining premises from which they were taken;

- (i) "person" includes corporation, company, syndicate, trust, firm, partnership, co-owners, or party, and the heirs, executors, administrators or other legal representatives of such person if the context can apply thereto;
- (j) "preceding year" means the year ending on the 31st day of December next before the time when the taxes hereby imposed are payable. R.S.O. 1937, c. 28, s. 1, cls. (d-f).

IMPOSITION, ACCRUAL AND PAYMENT OF TAXES

Tax to be
paid to
Crown.

2. There shall be paid to the Crown in right of Ontario in and for each and every year, at the time and in the manner hereinafter provided, the several taxes in this Act specified. R.S.O. 1937, c. 28, s. 2.

Dates of
accrual and
payment.

3. The taxes imposed by this Act shall be deemed to accrue on the 31st day of December of the year preceding the year in which they are payable and shall be payable to the Minister,

- (a) not later than the 15th day of March in each year in respect of the tax payable under section 4 as estimated on the returns required to be submitted by this Act; and
- (b) not later than the 1st day of October in each year in respect of the tax payable under sections 14 and 27. 1947, c. 68, s. 1.

PART I

MINING TAX

Tax on
profits.

4.—(1) Every mine, the annual profits of which exceed \$10,000, shall be liable for and the owner, manager, holder, lessee, tenant, occupier and operator of the same shall pay an annual tax of,

- (a) six per cent on the excess of annual profits above \$10,000 and up to \$1,000,000;
- (b) eight per cent on the excess of annual profits above \$1,000,000 and up to \$5,000,000; and
- (c) nine per cent on the excess of annual profits above \$5,000,000. R.S.O. 1937, c. 28, s. 4 (1); 1947, c. 67, s. 2 (1).

(2) For the purpose of this section all mines and mineral workings occupied, worked or operated by the same person, or under the same general management or control, or the profits of which accrue to the same person, shall for the purpose of determining whether there is liability to taxation hereunder, be deemed to be and be dealt with as one and the same mine, and not as separate mines. R.S.O. 1937, c. 28, s. 4 (2). ^{Mines worked together.}

(3) The annual profits shall be ascertained and fixed in the following manner, that is to say: the gross receipts from the year's output of the mine, or in case the ore, mineral or mineral-bearing substance or any part thereof is not sold, but is treated by or for the owner, holder, lessee, tenant, occupier or operator of the mine upon the premises or elsewhere, then the actual market value of the output at the pit's mouth, or if there is no means of ascertaining the market value, or if there is no established market price or value, the value of the same as appraised by the mine assessor shall be ascertained, and from the amount so ascertained, the following, and no other, expenses, payments, allowances or deductions shall be deducted and made, that is to say: ^{Ascertainment of profits.}

- (a) the actual cost of transportation of any output sold if paid or borne by the owner, holder, lessee, tenant, occupier or operator; ^{Deductions.}
 - (b) the actual and proper working expenses of the mine, both underground and above ground, including salaries and wages of necessary superintendents, captains, foremen, workmen, firemen, enginemen, labourers and employees of all sorts employed at or about the mine, together with the actual and proper salaries and office expenses for necessary office work done at the mine, and in immediate connection with the operation thereof;
 - (c) the cost of supplying power and light, and of hire of horses used in the mining operation or in handling the ore or mineral;
 - (d) the actual cost-price of food and provisions for all employees aforesaid, whose salaries or wages are made less by reason of being furnished therewith, and of fodder for horses used as aforesaid;
 - (e) the actual cost-price of explosives, fuel and any other supplies necessarily consumed in the mining operations;
 - (f) any actual and proper outlay incurred in safeguarding or protecting the mine or mineral product;
- R.S.O. 1937, c. 28, s. 4 (3), cls. (a-f).

- (g) the cost of proper insurance upon the output if paid or borne by the owner, holder, lessee, tenant, occupier or operator and upon the mining plant, machinery, equipment and buildings used for or in connection with the actual mining operations, or for storing the ore or mineral; R.S.O. 1937, c. 28, s. 4 (3), cl. (g); 1943, c. 28, s. 26.
- (h) an allowance of a sum for annual depreciation, by ordinary wear and tear, of the plant, machinery, equipment and buildings, such sum to be based upon the probable annual average cost of repairs and renewals necessary to maintain the same in a condition of efficiency, and in no case to exceed for any year 15 per cent of the value at the commencement of such year, such value to be appraised by the mine assessor;
- (i) the cost of actual work done in sinking new shafts, making new openings, workings or excavations of any kind, or of stripping or trenching, in or upon the lands upon which the mine is situated, or upon any other lands belonging to the same owner, holder, lessee, tenant, occupier or operator in Ontario, such work having for its object the opening up or testing for ore or mineral; provided, however, that such expenditure is *bona fide*, and actually made or borne by the person or persons liable, or who would but for this provision be liable for taxation upon the mine under this Act, and that separate accounts of such expenditure are kept and an affidavit or affidavits giving reasonable details of the nature, extent and location of such work shall be furnished to the Department with the annual statement hereinafter provided for; R.S.O. 1937, c. 28, s. 4 (3), cls. (h, i).
- (j) donations actually made for charitable, educational or patriotic purposes which have been approved by the mine assessor. 1941, c. 33, s. 2.

Certain
allowance
and deduc-
tion not
permitted.

(4) No allowance or deduction shall be made for cost of plant, machinery, equipment or buildings, nor for capital invested, nor for interest or dividend upon capital, or stock or investment, nor for depreciation in the value of the mine, mining land or mining property by reason of exhaustion or partial exhaustion of the ore or mineral, but this shall not restrict the generality of anything hereinbefore in this section contained. R.S.O. 1937, c. 28, s. 4 (4); 1946, c. 56, s. 2 (2).

Special
deduction.

(5) Where the Minister is satisfied that a mine operating on mineral deposits which are not bedded deposits came into

production on a day during the period commencing on the 1st day of January, 1944, and ending on the 31st day of December, 1952, he may allow a deduction from the aggregate tax payable under subsection 3 of an amount not exceeding 50 per cent thereof, in respect of any period not exceeding the first three years after the day the mine came into production, provided that,

- (a) where he is satisfied that the day upon which a mine came into production is prior to the 1st day of January, 1947, he may allow such deduction only in respect of any period not exceeding that part of the first three years after the day the mine came into production which is subsequent to the 31st day of December, 1946; and
- (b) with respect to the profits of the year during which the three-year period terminates, the deduction shall apply to that portion of the aggregate tax calculated on such profits under subsection 3, which the number of days from the 1st day of January of such year to the day which falls three years from the day the mine came into production, bears to the number 365. 1947, c. 67, s. 2 (3); 1950, c. 45, s. 1.

(6) In ascertaining and fixing the annual profits of a mine for the purpose of this section in respect of the tax payable under this section in 1949 and thereafter, the total of the expenses, payments, allowances or deductions under subsection 3 shall be reduced by an amount equal to any sum paid or payable in respect of the year's output of the mine under *The Emergency Gold Mining Assistance Act* (Canada). 1949, ^{Assistance payments to be deducted from expenses.} 1948, c. 15 (Can.). c. 60, ss. 1, 2.

(7) For the purpose of this section, unless a contrary intention appears, the operations, business, matters and things carried on, occurring or existing during the preceding year shall be taken as the basis of fixing, assessing and ascertaining the taxation hereunder. R.S.O. 1937, c. 28, s. 4 (5); 1947, c. 68, s. 2. ^{Based on preceding year.}

5.—(1) The owner, manager, holder, lessee, tenant, occupier and operator of every mine from which ore, minerals or mineral-bearing substances is or are being taken, shall within 10 days after the commencement of such active operations notify the Department of the fact that the mine is in active operation, and shall give in such notice the name of the mine and the name and address of the owner, manager, holder, lessee, tenant, occupier and operator of the mine, and the name and address of the manager, or of some other person, to whom ^{Duty to give notice of active operations.}

notices to be given under this Act may be sent (to be known as the name and address for service) and shall forthwith notify the Department of every change in the name and address of such manager or person, and of every change in the ownership, management, holding, tenancy, occupation or operation of the mine, and of every discontinuance of active operations, and of every recommencement thereof after discontinuance.

List of
mines.

(2) From the information so given, and from any other available source, the Department shall prepare and keep a list showing all operating mines in Ontario, with the names and addresses and particulars as so notified and given (keeping in a distinct and separate column or place the name and address for service), and any notice or requisition required or provided for by this Act shall be deemed to have been properly and sufficiently given and served if mailed by registered letter to the person whose name and address for service have been given at such address, or in case such a name and address be not so notified, then if mailed by registered letter to the address which the official or person sending the notice or requisition thinks most likely to reach the proper person. R.S.O. 1937, c. 28, s. 5.

Shipping
forbidden
before
notice.

6. No person shall ship, send, take or carry away, or permit to be shipped, sent, taken or carried away, from the mine from which the same has been taken, any ore, mineral or mineral-bearing substance, or any product thereof, until such person has notified the Department that the mine from which the same has been taken is in active operation. R.S.O. 1937, c. 28, s. 6.

Statement
to be
furnished.

7.—(1) Every person liable to pay the tax imposed under section 4 shall, without any notice or demand to that effect, in addition to any other statements which may otherwise be required, on or before the 15th day of March in every year, deliver to the Department a detailed statement in which shall be set forth,

- (a) the name and description of the mine;
- (b) the name and address of the person or persons owning, managing, holding, leasing, occupying and operating the mine;
- (c) the quantity of ore, minerals and mineral-bearing substances shipped or sent from or treated on the mining premises during the year ending 31st December last preceding;
- (d) the name of every smelter, refinery or mill to which such substances or any part thereof were shipped or sent;

- (e) the cost per ton for transportation to the smelter, refinery or mill, and actual, proper and necessary expenses of making sale, if any, and by whom paid or borne;
- (f) the cost per ton for smelter, refinery or mill charges, and by whom paid or borne;
- (g) the quantity of ore, minerals and mineral-bearing substances treated on the mining premises during such year;
- (h) the value of the ore, minerals and mineral-bearing substances shipped or sent after deducting the charges for making sales, and for transportation or for treatment;
- (i) the value of the ore, minerals and mineral-bearing substances treated on the mining premises,

and such statement shall show in another column or columns, with reasonable detail, the various expenses, payments, allowances and deductions which are proper to be made under section 4, and such statement shall show by way of summary the total receipts or market value at the pit's mouth of the year's output, as in this Act specified, and the total amount of expenses, payments, allowances and deductions proper under this Act to be deducted therefrom, and the balance of profits for the year as in this Act provided, and may also show the amount or approximate amount of municipal profits tax to be deducted under section 13. R.S.O. 1937, c. 28, s. 7 (1); 1947, c. 68, s. 3.

(2) Such statement shall be made under the oath of the owner, manager, holder, lessee, tenant, occupier or operator of the mine; but the Department or any mine assessor may require such statement, or any part thereof, to be made or verified under the oath of any other or others of such persons, or of any person connected with the ownership, management or operation of the mine, and may in addition to the above particulars require at any time such other information, particulars or statements as may be thought expedient. R.S.O. 1937, c. 28, s. 7 (2), *amended*.

8.—(1) Every person liable to pay the tax imposed under section 4 shall keep, at or near the mine, proper books of account of the ore, minerals or mineral-bearing substances taken from the mine, containing the quantity, weight and other particulars of the same and the value thereof, and showing the returns from the smelter, refinery or mill, or other returns of the amounts derived from the sale of such ores, minerals and mineral-bearing substances; and no ore, mineral

Statement to
be attested
on oath.

Books to be
kept.

or mineral-bearing substance taken out of any mine shall be removed therefrom or treated at any smelter, refinery or mill until the weight thereof has been correctly ascertained and entered in the books of account; and such person shall also keep proper books showing each of the several expenses, payments, allowances and deductions mentioned in section 4, and showing any other facts and circumstances necessary or proper for ascertaining the amount of such tax.

Power of
mine assess-
ors or as to
books.

(2) If any doubt arises as to where such books shall be kept, or as to how many, or what books shall be kept, the mine assessor shall determine the number and character of the books to be kept and the place at which they shall be kept. R.S.O. 1937, c. 28, s. 8.

MINE ASSESSORS

Mine assess-
ors and
duties.

9. The Lieutenant-Governor in Council may from time to time appoint one or more officers under this Act, to be known as a mine assessor or mine assessors, and the Minister may from time to time appoint any officer or person to perform for the time being, or to perform in any locality or in any special matter or case the duties of mine assessor, and every such officer or person shall be deemed an officer of the Department, and it shall be his duty, subject to the direction of the Minister, annually, and oftener if so required, to prepare lists and descriptions of and ascertain and report the facts and particulars concerning all mines, mining properties and mining rights liable, or which might be liable, to taxation under this Act, and to furnish the same to the Department, and to make such investigations and perform such other duties as are provided for by this Act or as may be prescribed by the Minister. R.S.O. 1937, c. 28, s. 9.

Assessors
may enter
mines.

10. It shall be lawful at all times for any mine assessor to enter upon mining premises for the purpose of making inquiries, obtaining information and otherwise performing his duties under this Act, and for any of these purposes he may descend all pits and shafts, and use all tackle, machinery, appliances and things belonging to the mine as he shall deem necessary or expedient, and he shall have free ingress and egress to, from and over all buildings, erections and vessels used in connection with the workings, and he shall from time to time be allowed to take from the mining premises such samples or specimens as he may desire for the purpose of determining by assay or otherwise the value of the ore, minerals or mineral-bearing substances being taken therefrom, or any product thereof, and he shall have full and complete access to all books of account and letters kept or used

for or in connection with the work and business of the mine, and may examine the same and take copies thereof or extracts therefrom, but any information of a private or confidential nature acquired by any assessor under this section shall not be communicated or disclosed to anyone except so far as may be necessary for the purposes of this Act. R.S.O. 1937, c. 28, s. 10.

TAX ROLLS AND APPEALS

11.—(1) The Department or any mine assessor or other officer or person acting under the direction of the Minister in that behalf shall, as soon as practicable after the receipt of the returns and statements mentioned in section 7, prepare from them and from the lists, statements and reports of the mine assessor a tax roll showing all mines and persons liable for the taxes imposed under section 4, and showing the quantity and value of output for each mine, the amount of deductions therefrom under the various headings as far as practicable, the profits for which each mine and person is assessable, and the amount of tax payable by each, also any deduction entitled to be made therefrom by reason of payment of municipal profits tax, and in making up the rolls the statement furnished pursuant to section 7 shall be *prima facie* evidence of the information required; but any default or defect in the furnishing of such statement or any omission therefrom shall not prevent the complete preparation of the roll, but in all cases the officer or person charged with the duty of preparing the roll may, subject to the approval of the Minister, make full and careful inquiry as to the correctness thereof, and may resort to all available sources of information within his control, and may make or order a mine assessor to make any investigation he deems fit, and may fix such amount as he believes to be just and correct; provided that whenever a mine or person is assessed for a larger sum than the statement shows liability for, notice thereof shall be given to such person, and he shall be entitled within 15 days from the mailing of the notice to appeal from the assessment as hereinafter provided.

(2) When the time for filing such appeal has expired, Appeals. the cases appealed shall be marked or distinguished from the others on the roll, and the roll shall thereupon be made up in duplicate, and the Minister shall by his signature authenticate the same as being the roll for the year, and subject to the determination of appeals, and subject to any additions or alterations that may be made by or pursuant to any investigation that may be ordered or directed as hereinafter provided for, the roll shall be final and conclusive as to the liability of the several mines and persons therein mentioned to pay the tax therein specified.

Notice of
appeal.

(3) An appeal, as provided for in subsection 1, shall be made by lodging with the Department within the time limited a notice in writing stating that the appellant thereby appeals from the tax in question, and stating as far as practicable the grounds of appeal or the particulars of objection to the tax, and the appeal shall be referred in writing by the Minister to the Mining Court or to the Ontario Municipal Board, to be tried and determined.

Investiga-
tion in lieu
of appeal.

(4) The Minister, if in any case he sees fit, instead of having the amount of the tax for any mine or person entered on the roll, as mentioned in subsection 1, may direct in writing that the amount of the tax for which such mine or person is liable shall be ascertained and fixed by the Mining Court or by the Ontario Municipal Board, and the Minister may at any time either before or after the roll is made up and signed, and whether or not the mine or person in question is entered thereon for taxation, direct in writing that the truth or correctness of any statement furnished pursuant to section 7, or that the question of liability or amount of liability of any mine or person for the tax under this Act, shall be inquired into and investigated and reported upon by the Mining Court or the Ontario Municipal Board.

Hearing of
appeal.

(5) The Mining Court or the Ontario Municipal Board shall, upon receiving any direction or reference mentioned in subsection 3 or 4, proceed to try and dispose of the appeal, or determine or inquire into and investigate the question or matter so referred or directed to be investigated, and for all and any of such purposes shall have the same power to enforce the attendance of witnesses, and to compel them to give evidence, and produce documents and things, as is vested in any court in civil cases, and the decision of the Mining Court or the Ontario Municipal Board, after giving the parties an opportunity to be heard, shall for the purposes of this Act be final and conclusive as to the particulars therein mentioned, subject only as hereinafter in this section provided. R.S.O. 1937, c. 28, s. 11 (1-5).

Costs.

(6) In any such proceedings or investigation, or on any appeal, the Mining Court or the Ontario Municipal Board may order the appellant, or the person causing the investigation by reason of false or incorrect statements, or failure to keep books and accounts or to otherwise conform to this Act, to pay the costs of such appeal, proceeding or investigation, and may direct that the same be taxed by a taxing officer of the Supreme Court and added to the tax for which such person is liable under this Act. R.S.O. 1937, c. 28, s. 11 (6); 1945 (2nd Sess.), c. 5, s. 3.

(7) All decisions, findings and reports made by the Mining Court or the Ontario Municipal Board pursuant to this section shall be filed with the Department, and notice of the filing shall forthwith thereafter be mailed by the Department to the owner or manager of the mine concerned. R.S.O. 1937, c. 28, s. 11 (7), *amended*. Filing
decision.

(8) In any case where the amount of the tax involved exceeds \$1,000, an appeal shall lie from any decision, finding or report of the Mining Court or the Ontario Municipal Board under this section to the Court of Appeal; provided that notice of such appeal is lodged with the Department within 15 days after the filing of such decision, finding or report with the Department, and the procedure upon and governing such appeal shall be, as far as may be, the same as upon an appeal to the Court of Appeal in an action, but leave shall not be necessary, and the decision of that court shall be final. R.S.O. 1937, c. 28, s. 11 (8). Appeal to
Court of
Appeal.

Proviso.

12.—(1) It shall be the duty of the mine assessor, or the person charged with the collection of any tax imposed under section 4, after examining the returns submitted, to send a notice of assessment to the owner, manager, holder, lessee, tenant, occupier or operator of the mine verifying or altering the amount of tax as estimated in the returns and any additional tax found to be due over the estimated amount shall be paid within one month from the date of mailing of the notice of assessment, together with penalties as in this Act provided. Notice of
assessment.

(2) If the mine assessor, or the person charged with the collection of any tax imposed under section 4, finds that the returns understate the amount of tax which should be payable, but is satisfied that such understatement was not made with intent to decrease the amount of tax to be paid, but was made in good faith and with no improper motive, he may, with the approval of the Minister, remit all or such part of the penalties as may in his discretion seem just. Remission.

(3) If the owner, manager, holder, lessee, tenant, occupier or operator of the mine fails to pay such additional tax and penalties, if any, within one month from the date of the mailing of the notice of assessment, and no appeal is taken as provided in section 11, he shall, notwithstanding any relief granted under subsection 2, be liable for and shall pay in addition to the amount of tax due full penalties as in this Act provided. Failure to
pay addi-
tional tax.

(4) The Treasurer of Ontario, upon the recommendation of the Minister, following the issue of the notice of assessment, may refund any overpayment of tax or penalties made by the taxpayer. 1945 (2nd Sess.), c. 5, s. 4. Refunds.

PROFITS TAX MAY BE DEDUCTED

Allowance
for profits
tax paid
to municipi-
pality.

Rev. Stat.,
c. 24.

13. Where a person liable for payment of tax under section 4 in respect of a mine is also during any year in which such tax is payable liable for and paying to the municipality or municipalities in which the mine is situate, a tax upon profits derived from the mine, he shall be entitled to deduct from the amount of the tax payable under section 4 the amount of such municipal profits tax to the extent of an amount equal to the sum for which he is liable and which is payable to the municipality or municipalities under subsection 8 of section 33 of *The Assessment Act*, provided that notice of the amount and proof of the liability for and payment of such municipal profits tax is furnished to the mine assessor at such time and in such manner as he may require. 1939, c. 47, s. 21 (1).

ACREAGE TAX

Acreage
tax.

14.—(1) Except as hereinafter provided,

- (a) every mining location and mining claim in unorganized territory held either mediately or immediately under patent, lease or licence of occupation acquired under or pursuant to any statute, regulation or law at any time in force authorizing the granting or leasing of Crown lands for mining purposes;
- (b) all land in unorganized territory being held or used for mining purposes howsoever patented or alienated from the Crown;
- (c) all mining rights in, upon or under every mining location and mining claim in a municipality and patented, leased or granted under licence of occupation acquired under or pursuant to any statute, regulation or law at any time in force authorizing the granting or leasing of Crown lands for mining purposes;
- (d) all mining rights in, upon or under land in a municipality and being held or used for mining purposes howsoever patented or alienated from the Crown; and
- (e) all mining rights howsoever patented or acquired which are severed from or held apart or separate from the surface rights,

shall be liable for, and the owner, holder, lessee and occupier thereof shall pay an acreage tax of 10 cents per acre in each year, provided that the minimum tax on any mining location, mining claim or mining rights shall not be less than \$1 in each year. 1946, c. 56, s. 3, *part*.

(2) No such tax shall be payable in respect of the mining Exemption. rights in, upon or under any land in a municipality where the land has been laid out as a townsite or subdivided into lots or parcels for city, town, village, park or summer resort purposes, but this subsection shall not exempt the mining rights from taxation on parcels of more than two acres in area where the mining rights are severed or held apart or separate from the surface rights. 1946, c. 56, s. 3, *part*; 1950, c. 45, s. 2.

(3) No such tax shall be payable in respect of the mining Exemption. rights in, upon or under any land being held, used or developed solely for the production of natural gas or petroleum situated south of the French river, Lake Nipissing and the Mattawa river, and including the district of Manitoulin.

(4) No such tax shall be payable in respect of such acreage Exemption. as was during the preceding year actually and *bona fide* in use for farming purposes or occupied by buildings or reasonably required or used in connection with such farming or buildings, but this subsection shall not exempt from taxation the mining rights held apart or separate from the surface rights nor shall there be any right to exemption unless a claim for such exemption has been made and proof by affidavit or otherwise of the facts has been furnished to the Department not later than the 1st day of March of the year in which the tax is payable nor unless such claim for exemption has been approved in writing by the mine assessor. 1946, c. 56, s. 3, *part*.

(5) No such tax shall be payable in respect of a mining claim Exemption. or mining location where the owner has executed and filed with the Deputy Minister a conveyance to the Crown of the mining rights in, upon and under the same. 1948, c. 57, s. 1, *part*.

(6) The decision of the mine assessor as to the right of Mine assessor's decision final. exemption under this section shall be final and conclusive. 1946, c. 56, s. 3, *part*.

(7) Where the mine assessor is satisfied that the surface Where Act applicable to mining rights only. rights in respect of a mining claim or mining location are being used for purposes other than that of mining or the mineral industry, this Act shall apply only to the mining rights. 1948, c. 57, s. 1, *part*.

15.—(1) The trustees of every school section in unorgan- School trustees in unorganized territory to make list. ized territory shall prepare a list of all mining locations, mining claims, mining rights and other lands within their school section liable to acreage tax under section 4, and such list shall be signed and certified by their secretary or secretary-treasurer, who shall forward it to the Department on or before the 30th day of April in each year.

Payment to school trustees of one-half of acreage tax.

(2) The Treasurer of Ontario shall pay to such trustees for school purposes each year one-half of the amount certified by the Deputy Minister to have been actually received by Ontario for such acreage tax within the school section during the year, and it shall be the duty of the Deputy Minister each year to certify such sum. R.S.O. 1937, c. 28, s. 15.

Acreage tax roll.

16.—(1) From the lists furnished under section 15, from lists and information prepared by the mine assessor, and from records in the Department and in the Department of Lands and Forests, and from any other source of information, the Deputy Minister, or any assessor charged with the duty, shall prepare each year a tax roll of properties and persons liable to the acreage tax under section 14.

Correction of errors, etc.

(2) Any person may notify the Department at any time of any omission from or error in such roll, and the Department may add to or correct the roll at any time. R.S.O. 1937, c. 28, s. 16.

Liability for tax though not on roll.

17. Notwithstanding anything in section 16, every person and property liable to the acreage tax under section 14 shall be and continue so liable whether entered in such roll or not, and the tax shall without any notice or demand be payable at the time and in the manner provided by this Act. R.S.O. 1937, c. 28, s. 17.

Disputes and appeals.

18. Where any question or dispute arises as to the liability of any person or property to the acreage tax under section 14, the Minister may in writing refer such question or dispute to the Mining Court or the Ontario Municipal Board, and thereupon all the provisions of subsections 5, 6 and 7 of section 11 shall, as far as may be, apply thereto. R.S.O. 1937, c. 28, s. 18.

Procedure to enforce claim for payment of taxes by one co-owner against another.

19.—(1) Where lands liable to acreage tax under section 14 are held by two or more co-owners, and the whole of the taxes have been paid by one or more of the co-owners, and the other co-owner or co-owners has or have neglected or refused to pay his or their proportion of such taxes for a period of four years, the Mining Court, upon the application of the co-owner or co-owners who have paid the taxes, may make an order requiring the delinquent co-owner or co-owners to pay, within three months from the date of the order or such further time as the court may fix, their proper proportion of the taxes to the co-owner or co-owners who have paid them, together with interest at the rate of 10 per cent per annum compounded yearly, and such costs of the application as may be allowed by the court.

(2) The order shall be served in such manner as the court shall direct, and if at the expiration of the period fixed by the order it appears to the court that the payment has not been made in accordance therewith, the court may make an order vesting the interest of the delinquent co-owner or co-owners in the co-owner or co-owners who have paid the taxes, and such order shall be registered in the proper registry or land titles office, and a duplicate original thereof forwarded by the court to the Minister. R.S.O. 1937, c. 28, s. 19 (1, 2). ^{Service of order.}

(3) For the purpose of this section, two or more co-holders, co-lessees or co-occupiers shall be deemed to be co-owners, and an incorporated company and a shareholder therein shall be deemed to be co-owners of the lands of the company. ^{Interpretation.}

(4) Any order made against an incorporated company under this section shall be directed to the company only. 1939, c. 47, s. 21 (2). ^{Service of order on company.}

FORFEITURE FOR NON-PAYMENT

20.—(1) The Deputy Minister shall cause to be prepared between the 1st day of October and the 31st day of December of each year, a list of all mining lands, mining locations, mining claims, mining rights and other lands in respect of which any acreage tax imposed under this Act is two years or more in arrear, and, not later than the 15th day of April next following, shall cause to be mailed by registered post, a notice to the person appearing from search or inquiry at the registry or land titles office to be the owner of the property in default and to every person appearing from such search or inquiry to have an interest therein, stating that unless the total amount of tax and penalties due and payable under this Act are paid on or before the 31st day of December next following, the property will be forfeited to and vested in the Crown on the 1st day of January next following; and to the amount so due and payable there shall in every case be added and paid as costs, the sum of \$5 for each property. ^{Defaulters list and notice of forfeiture.}

(2) Not later than the 15th day of May of each year, the Deputy Minister shall cause the list prepared under subsection 1 to be published in one issue of *The Ontario Gazette* and in one issue of a newspaper published in the district or county in which the property is situate, giving notice that unless the total amount of tax, penalties and costs shown therein are paid on or before the 31st day of December next following, the property will be forfeited to and vested in the Crown on the 1st day of January next following. ^{Publication of list and notice.}

(3) Where the total amount of tax, penalties and costs remain unpaid after the 31st day of December of the year of ^{Declaration of forfeiture.}

publication of the notice mentioned in subsection 2, the Minister by certificate under his hand and seal of office may on or after the 1st day of January next following declare the mining lands, mining locations, mining claims, mining rights or other lands forfeited to and vested in the Crown, and thereupon the patent or lease or other title whereby such lands or rights were granted shall be cancelled and annulled and the premises comprised therein shall vest in the Crown absolutely freed and discharged from every estate, right, title, interest, claim or demand therein or thereto, whether existing, arising or accruing before or after such forfeiture is declared, and shall not be open to prospecting, staking out, sale or lease, except as provided in subsection 6.

Registration
of certificate.

(4) The registrar of the registry division in which any land or right mentioned in a certificate of forfeiture made under this section is situate, or the local master of titles, as the case may be, shall upon receipt of the certificate, duly register the same and it shall be absolute and conclusive evidence of the forfeiture to the Crown of the land or mining right so certified to be forfeited and shall not be open to attack in any court by reason of the omission of any act or thing leading up to the forfeiture.

Rev. Stat.,
cc. 336, 197
not to apply
to forfeited
lands.

(5) Upon registration of the certificate of forfeiture in the registry or land titles office, *The Registry Act* or *The Land Titles Act*, as the case may be, shall cease to apply to the land forfeited, and the registrar or local master of titles shall note that fact in his register in red ink.

Opening
forfeited
lands for
prospecting,
etc.

(6) The mining lands, mining locations, mining claims, mining rights and other lands forfeited to and vested in the Crown under this section, that are mentioned in a notice published in one issue of *The Ontario Gazette* during May of any year, shall be open to prospecting, staking out, sale or lease on and after the 1st day of June next following. 1950, c. 45, s. 3.

Right to
search
registry
and land
titles office
free of
charge.

21. Any person duly authorized by the Minister in writing may, for the purpose of ascertaining the names and addresses of owners of land liable to taxation under this Act, search and inspect registry books and indexes in registry offices and books and documents in the custody of masters of titles, and no charge shall be made by and no fee shall be payable to a registrar or master of titles for any such search or inspection. 1940, c. 16, s. 1.

Machinery
and property
may be
removed
upon for-
feiture.

22. Where any lands or mining rights have been forfeited to the Crown under this Act, the owner may take from them any machinery, chattels or personal property, and any ore or

mineral he may have extracted therefrom belonging to him, within six months after such forfeiture, or within such further time as may be fixed by the Mining Court, and in default of so doing, all such machinery, chattels, personal property, ore or mineral shall belong to the Crown in right of Ontario. R.S.O. 1937, c. 28, s. 21.

23.—(1) The Minister may regrant any lands forfeited under this Act to the owner thereof at the time of such forfeiture or to his heirs, successors or assigns upon such terms as the Minister may deem just and the decision of the Minister upon any application for a regrant of such lands under this section shall be final and conclusive. Regrant of forfeited lands to owner.

(2) In lieu of such regrant the Lieutenant-Governor in Council may by order revoke, cancel or annul the forfeiture and such order shall be entered and registered in the proper land titles office or registry office and thereupon such lands shall be revested in the owner of the lands at the time of forfeiture, his heirs, successors or assigns subject to any lien, mortgage or charge entered or registered prior to the forfeiture and still outstanding. R.S.O. 1937, c. 28, s. 22. Order in Council revoking forfeiture.

24. Where lands forfeited to and vested in the Crown under this Act have been prior to such forfeiture assessed for school taxes and sold for the non-payment of such taxes, the Minister may cause an examination of such lands to be made, and where it is found upon such examination and report of an officer of the Department thereon that such lands are in use and occupation for agricultural purposes, or are suitable for the same, and are not valuable for minerals, the Minister of Lands and Forests, upon report of the Minister, may deal with such lands and dispose of them under *The Public Lands Act* to the purchaser thereof, if any, under such tax sale, or his representatives or assigns, freed and discharged from all claims for taxes imposed under this Act, but every patent issued for such lands shall be subject to any undischarged lien or encumbrance created by such tax purchaser, his representative or assigns, and the mines and minerals in such lands shall be reserved, and the patent shall be so expressed. R.S.O. 1937, c. 28, s. 23. Forfeited lands sold for non-payment of school taxes.

25. In case any doubt or dispute arises as to the liability of any person to pay a tax or any portion of a tax demanded under this Act, or where owing to special circumstances it is deemed inequitable to demand payment of the whole amount imposed under this Act, the Minister may compromise the matter by the acceptance of such amount as he may deem proper; and in case the tax claimed has been paid under pro- Rev. Stat., c. 309. Release from tax. Compromise of tax.

test he may refund the same or any part thereof to the person making such payment. R.S.O. 1937, c. 28, s. 24.

Mine under
agreement
exempt.

26. Where by any agreement made before the 20th day of April, 1907, between the owner, holder, lessee, tenant, occupier or operator of a mine and the Crown it is agreed that no tax shall be paid, such mine shall be exempt from the profit tax and acreage tax imposed by this Act. R.S.O. 1937, c. 28, s. 25.

PART II

NATURAL GAS

Tax on
natural gas.

27.—(1) Every person producing natural gas shall be liable for and pay an annual tax as follows:

(a) Where exported from Canada—two cents a thousand cubic feet.

(b) Where consumed in Canada—one-half cent a thousand cubic feet.

Remission
of tax.

(2) The Minister may remit the annual tax to the extent of \$250 on natural gas consumed in Canada. 1948, c. 57, s. 3.

Books to be
kept.

28. The owner, lessee, tenant, occupier or operator of one or more wells shall keep a book continuously at a place in Ontario fixed by the mine assessor, in which he shall truly and faithfully record the total quantity of gas flowing, drawn or pumped from, or produced by the well or wells operated by him. R.S.O. 1937, c. 28, s. 27.

Inspection
of apparatus;

29.—(1) The mine assessor shall have the right to inspect at any time all apparatus and machinery used in connection with any well, for the purpose of estimating or ascertaining the quantity of gas flowing, drawn or pumped from or produced by any well.

books.

(2) He shall also have the right to examine at any time such book and to call for and examine all books, records and memoranda, whether the same are required by law to be kept or not, kept by the owner, lessee, tenant, occupier or operator or any one or more of them, for the purpose of ascertaining the quantity of gas flowing, drawn or pumped from or produced by any well; and the owner, lessee, tenant, occupier or operator shall forthwith upon demand produce to the mine assessor all such books, records and memoranda for the purposes aforesaid. R.S.O. 1937, c. 28, s. 28.

30.—(1) If the mine assessor has reason to believe that the amount of gas produced by any well is not correctly shown by the book required to be kept, or by other books, records or memoranda as aforesaid, he may direct that a meter shall be affixed by the owner, lessee, tenant, occupier or operator to every main pipe or duct through which all of the gas flowing, drawn or pumped from the well or wells passes, so as to indicate the total gross quantity of gas flowing, drawn or pumped from, or produced by the well or wells. R.S.O. 1937, c. 28, s. 29. When meter to be affixed.

(2) The meter may be inspected and tested at any time by or at the request of the mine assessor for the purpose of ascertaining whether it correctly records the quantity of gas flowing, drawn or pumped from, or produced by the well or wells, and in case he finds that it is not truly recording the quantity of gas flowing, drawn or pumped from, or produced by the well or wells, he may by a writing under his hand order that it be put in order forthwith so as to furnish a true record, or he may order that a new meter shall be affixed forthwith to the pipe or duct; and the owner, lessee, tenant, occupier or operator shall cause the order to be obeyed forthwith. Defective meters to be remedied.

(3) If the mine assessor finds that the meter is so placed that the total quantity of gas flowing, drawn or pumped from, or produced by the well or wells does not pass through the meter, he may by a writing under his hand order that it be so placed that all of the gas proceeding from the well or wells passes through it, and the owner, lessee, tenant, occupier or operator shall cause the order to be obeyed forthwith. R.S.O. 1937, c. 28, s. 30. Meter not correctly placed.

31. Every owner, lessee, tenant, occupier and operator of any well or wells to which this Act applies, or the manager or superintendent thereof, shall furnish to the Minister on or before the 1st day of July in each year, a true statement of the quantity of gas subject to tax under section 27 which flowed, was drawn or pumped from and produced by such well or wells during the 12 months ending on the 31st day of December next preceding such date. R.S.O. 1937, c. 28, s. 32. Statement to be furnished by owner.

32.—(1) The mine assessor shall examine the statement and ascertain whether or not it is a true and correct statement of the quantity of gas which proceeded from the well or wells for such period, and if he finds it to be correct, the quantity so stated shall be the quantity upon which the tax shall be computed for such period, and the mine assessor shall thereupon notify the owner, lessee, tenant, occupier or operator of the same. Assessor to examine statement.

Incorrect
statement,
amendment.

(2) If the mine assessor is of opinion that the statement is incorrect, he shall notify the person furnishing the statement thereof, and in what particular it is deemed to be incorrect, and, if the owner, lessee, tenant, occupier or operator assents thereto, the statement may be amended and resworn, and when so amended the quantity so stated shall be the quantity upon which the tax shall be computed for such period.

Disputed
statement.

(3) If the owner, lessee, tenant, occupier or operator disputes the notice so given, the dispute shall be heard by the Mining Court or the Ontario Municipal Board as the Minister directs, and the decision of the Court or Board, as the case may be, shall be final and conclusive, and the quantity so found shall be entered on the statement as the true quantity, and the tax for such period shall be computed thereon. R.S.O. 1937, c. 28, s. 33.

Date for
payment of
tax.

33.—(1) At the times specified in section 3, the owner, lessee, tenant, occupier or operator shall pay to the Minister the full tax for the quantity of gas shown in the statement as having proceeded from the well during the preceding year.

Settling
disputes as
to amount.

(2) If any dispute is then pending as to the true quantity, the tax shall nevertheless be paid on the amount shown in the statement, and as soon as the dispute has been determined by increasing the quantity, the remainder of the tax shall be paid forthwith, and if a less quantity is found to have proceeded from the well, the excess of the tax received shall be remitted forthwith to the person paying the tax. R.S.O. 1937, c. 28, s. 34.

Exemption
of municipal
corporation.

34. A municipal corporation shall not be required to pay any tax under Part II upon any gas actually used in Canada. R.S.O. 1937, c. 28, s. 35.

PART III

PERCENTAGE, REMEDIES AND PENALTIES

Ten per cent
to be added
for default.

35.—(1) Where any tax imposed under this Act is not paid at the time provided, 10 per cent shall be added thereto forthwith, and 10 per cent shall be added at the expiration of each year thereafter that the tax remains unpaid, and such increased amounts shall for all purposes be and become the tax due and payable under this Act.

Record of
arrears to be
kept.

(2) The Deputy Minister, or such other person as may be directed by the Minister, shall keep a careful record of all arrears of taxes under this Act, with the increased amounts from time to time entered thereon. R.S.O. 1937, c. 28, s. 36.

36. All taxes, double taxes, percentages, penalties and costs payable under this Act shall be a special lien on the mine, mining location, mining claim, land or mining rights and upon all ore, minerals or mineral-bearing substances taken therefrom, and upon the gas well or wells and the leases of and rights respecting the same and upon all machinery upon or connected with the mine or gas well or wells in priority to every claim, privilege, lien or encumbrance of any person, whether the right or title of such person has accrued before or accrues after the attaching of such lien, and its priority shall not be lost or impaired by any neglect, omission or error of any official, officer or person, or by want of registration and such lien may be realized by action for sale of any or all property, leases and rights subject to such lien. R.S.O. 1937, c. 28, s. 37.

Special lien
and priority
of the tax.

37. If any tax imposed under this Act is not paid when due, the same, together with the added percentage, may be recovered from the owner, lessee, tenant, occupier or operator of the mine or well by an action at the suit of the Minister in any court of competent jurisdiction, together with the costs of the action. R.S.O. 1937, c. 28, s. 38.

Action to
recover
tax.

38.—(1) In addition to any other remedy for the recovery of any tax imposed under this Act, an injunction or an order in the nature of an injunction or the appointment of a receiver with all necessary powers, or such other relief or remedy as may seem necessary or expedient for securing payment of the tax, may, in any case where any tax under this Act is overdue or where the payment of any accrued or future tax seems endangered, be obtained in the Supreme Court or county or district court at the instance and in the name of the Minister to prevent the removal, transportation or transmission of any ore, mineral or mineral-bearing substance, or natural gas, or to prevent or restrict mining operations or the production or waste of natural gas, or to provide for such operations or production upon such terms and conditions as may seem proper.

Injunction
or receiver,
collection of
taxes.

(2) Where natural gas is wasting in such quantity that the mine assessor deems that payment of any tax due or to become due thereon is endangered, he may give notice in writing to the owner or person in charge of the well from which the gas is flowing, or may post up notice at or near such well requiring stoppage of the waste, and if the waste is not effectively prevented within six days thereafter the mine assessor may, with the consent of the Minister, forthwith close up or direct and procure the closing up of such well in such way as he may deem suitable and proper, and the mine assessor shall have all rights and powers necessary therefor,

Closing up
natural gas
well where
tax
endangered
by waste.

and the expenses of the closing up as certified by the mine assessor shall, subject to appeal as provided by section 11, be added to and be deemed part of the tax under this Act. R.S.O. 1937, c. 28, s. 39.

Action by
Minister
does not
abate.

39. Any action which may be brought under this Act may be brought by the Minister as plaintiff, and it shall not be necessary to name the Minister, and the action shall not abate by reason of a change in the person of the Minister or by reason of the office being vacant at any time, but the action may proceed as though no change had been made or no vacancy existed. R.S.O. 1937, c. 28, s. 40.

Distress.

40. Where default is made in the payment of any taxes imposed under this Act, the taxes, together with all additions of percentage, double tax, penalties and costs, may be levied and collected by distress, together with costs of distress, upon the goods and chattels wherever found of the person or any person liable therefor, under warrant signed by the Minister or Deputy Minister, directed to the sheriff of any county or district in which the person in arrear may have any goods or chattels, and in such case the sheriff shall realize the amount directed to be realized by the warrant and all costs by sale of such goods or so much thereof as may be necessary to satisfy the amount directed to be levied by such warrant. R.S.O. 1937, c. 28, s. 41.

PENALTIES

Penalty for
false
information.

41. Every person knowingly making or signing any false statement or furnishing any false or incorrect information to the Department or any mine assessor or giving any other false or incorrect information to any officer or person in respect to any other matter or thing required under this Act, or keeping or causing to be kept any false or incorrect book or accounts regarding anything required under this Act, with intent to deceive shall, in addition to any other liability, be guilty of an offence and on summary conviction shall be liable to a penalty of \$200. R.S.O. 1937, c. 28, s. 42, *amended*.

Penalty for
not furnish-
ing
information.

42. Every person who is required under section 7 to make or furnish any statement or information, and every mine in respect of which such statement or information is required to be made or furnished shall, in case of neglect to conform with the said section, incur a penalty of \$20 per day for each day during which the default is made, which penalty or sum shall be added to and become part of the tax imposed under this Act, and such person and such mine shall also be liable to pay a tax of double the amount for which it would have been liable under

section 4, and any such penalty or double tax may be recovered from any person liable therefor in an action brought in the name of the Minister, to be tried by a judge without a jury. R.S.O. 1937, c. 28, s. 43.

43. Every person violating section 6 and every person violating section 10 by communicating or disclosing any information contrary to the provisions thereof shall be guilty of an offence and on summary conviction shall be liable to a penalty of \$50. R.S.O. 1937, c. 28, s. 44. Penalty for disclosing information, etc.

44. If any order made under subsection 2 or 3 of section 30 is not complied with within a reasonable time after it has been delivered, the owner, lessee, tenant, occupier or operator shall be liable to a penalty of \$10 for every day from the delivery of the order until it is complied with, to be recovered with costs by action at the suit of the Minister in any court of competent jurisdiction as a debt due, and the owner, lessee, tenant, occupier or operator shall also be liable for double the tax computed upon the amount of gas estimated by the mine assessor to be passing through the pipe or duct during such period. R.S.O. 1937, c. 28, s. 45. Penalty for non-compliance with orders.

REMISSION

45. The Minister may remit the tax upon the profits arising out of the mining of iron ore where he is satisfied that the iron ore has been smelted in Canada or delivered to a blast furnace therein for the purpose of being smelted. 1948, c. 57, s. 4. Remission of tax on iron ore profits.

REGULATIONS

46. The Lieutenant-Governor in Council may make regulations for carrying out the purposes of this Act. R.S.O. 1937, c. 28, s. 47; 1946, c. 56, s. 4. Regulations.



CHAPTER 238

The Minors' Protection Act

1.—(1) The keeper of a licensed billiard, pool or bagatelle ^{Pool rooms, etc.} room, kept directly or indirectly for hire or gain, shall not admit thereto a child under 18 years of age, or allow such a child to remain therein, unless the child is accompanied by his parent or legal guardian. R.S.O. 1937, c. 296, s. 1 (1); 1946, c. 57, s. 1 (1).

(2) This section shall not apply to a child who is a member ^{Exception.} of the family of the keeper or his servant, or who does not go to the billiard, pool or bagatelle room for the purpose of loitering or to play billiards, pool or bagatelle therein, nor where the keeper had reasonable cause to believe that the child was not under 18 years of age. R.S.O. 1937, c. 296, s. 1 (2); 1946, c. 57, s. 1 (2).

2.—(1) No person shall either directly or indirectly sell ^{Supplying tobacco.} or give or furnish to a child under 18 years of age cigarettes, cigars or tobacco in any form.

(2) This section shall not apply to a sale to a child for his ^{Exception.} parent or guardian under a written request or order of the parent or guardian. R.S.O. 1937, c. 296, s. 2.

3.—(1) Every person who contravenes any of the provisions ^{Penalty.} of this Act shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$2 and not more than \$50. R.S.O. 1937, c. 296, s. 3 (1), *amended*.

(2) A person who appears to the magistrate to be under the ^{Presumption as to age.} age named shall be deemed to be under that age unless it is proved that he is in fact over that age. R.S.O. 1937, c. 296, s. 3 (2).

CHAPTER 239

The Mortgages Act**1. In this Act,**Interpreta-
tion.

- (a) "conveyance" includes assignment, appointment, lease, settlement and other assurance and covenant to surrender made by deed on a sale, mortgage, demise or settlement of any property or on any other dealing with or for any property; and "convey" has a corresponding meaning;
- (b) "encumbrance" includes a mortgage in fee or for a less estate, a trust for securing money, a lien, and a charge of a portion, annuity or other capital or annual sum; and "encumbrancer" has a corresponding meaning, and includes every person entitled to the benefit of an encumbrance, or to require payment or discharge thereof;
- (c) "land" includes tenements and hereditaments, corporeal or incorporeal, houses and other buildings, and also an undivided share in land;
- (d) "mortgage" includes any charge on any property for securing money or money's worth; "mortgage money" means money or money's worth secured by a mortgage; "mortgagor" includes any person deriving title under the original mortgagor or entitled to redeem a mortgage, according to his estate, interest or right in the mortgaged property; and "mortgagee" includes any person deriving title under the original mortgagee. R.S.O. 1937, c. 155, s. 1.

PART I

RIGHTS AND OBLIGATIONS OF MORTGAGORS AND MORTGAGEES

2.—(1) Notwithstanding any stipulation to the contrary where a mortgagor is entitled to redeem he may require the mortgagee, instead of giving a certificate of payment or reconveying and on the terms on which he would be bound to reconvey, to assign the mortgage debt and convey the mortgaged property to any third person as the mortgagor directs, and the mortgagee shall be bound to assign and convey accordingly.

Obligation
on mortgagee
to transfer
instead of
reconveying.
Imp. Act,
44 and 45 V.
c. 41, s. 15.

Idem.

Imp. Act,
45 and 46 V.
c. 39, s. 12.

(2) The right of the mortgagor to require an assignment shall belong to and be capable of being enforced by each encumbrancer or by the mortgagor, notwithstanding any intermediate encumbrance; but a requisition of an encumbrancer shall prevail over that of the mortgagor, and as between encumbrancers a requisition of a prior encumbrancer shall prevail over that of a subsequent encumbrancer.

Exception.

(3) This section shall not apply if the mortgagee is or has been in possession. R.S.O. 1937, c. 155, s. 2.

Right of
mortgagor to
inspect title
deeds.

Imp. Act,
44 and 45 V.
c. 41, s. 16.

3. Notwithstanding any stipulation to the contrary a mortgagor, as long as his right to redeem subsists, shall be entitled, at reasonable times, on his request, and at his own cost and on payment of the mortgagee's costs and expenses in that behalf, to inspect and make copies or abstracts of or extracts from the documents of title relating to the mortgaged property in the custody or power of the mortgagee. R.S.O. 1937, c. 155, s. 3.

Action for
possession
of land by
mortgagor.

4. A mortgagor entitled for the time being to the possession or receipt of the rents and profits of any land, as to which no notice of his intention to take possession or to enter into receipt of the rents and profits thereof has been given by the mortgagee, may sue for such possession, or sue or distrain for the recovery of such rents or profits, or to prevent or recover damages in respect of any trespass or other wrong relative thereto, in his own name only, unless the cause of action arises upon a lease or other contract made by him jointly with any other person, and in that case he may sue or distrain jointly with such other person. R.S.O. 1937, c. 155, s. 4.

Application
of insurance
money.

5.—(1) All money payable to a mortgagor on an insurance of the mortgaged property, including effects, whether affixed to the freehold or not, being or forming part thereof, shall, if the mortgagee so requires, be applied by the mortgagor in making good the loss or damage in respect of which the money is received.

Idem.

Imp. Act,
44 and 45 V.
c. 41, s. 23.

(2) Without prejudice to any obligation to the contrary imposed by law or by special contract, a mortgagee may require that all money received on an insurance of the mortgaged property be applied in or towards the discharge of the money due under his mortgage. R.S.O. 1937, c. 155, s. 5.

Covenants to
be implied;
Imp. Act,
44 and 45 V.
c. 41, s. 7.

6. There shall, in the several cases mentioned in this section, be deemed to be included, and there shall in those several cases be implied, covenants to the effect stated in this section, by the person or by each person who conveys, as far as regards the subject-matter or share thereof expressed to be conveyed

by him with the person, if one, to whom the conveyance is made, or with the persons jointly, if more than one, to whom the conveyance is made as joint tenants, or with each of the persons, if more than one, to whom the conveyance is made as tenants in common, that is to say,

- (a) in a conveyance by way of mortgage, the following on mortgage by beneficial owner; covenants by the person who conveys, and is expressed to convey as beneficial owner, namely,
- (i) for payment of the mortgage money and interest, and observance in other respects of the proviso in the mortgage,
 - (ii) for good title,
 - (iii) for right to convey,
 - (iv) that, on default, the mortgagee shall have quiet possession of the land, free from all encumbrances,
 - (v) that the mortgagor will execute such further assurances of the said lands as may be requisite, and
 - (vi) that the mortgagor has done no act to encumber the land mortgaged,

according to the forms of covenants for such purposes set forth in Schedule B to *The Short Forms of Mortgages Act*, subject to the provisions of that Act; Rev. Stat. c. 362.

- (b) in a conveyance by way of mortgage of leasehold on mortgage of leaseholds, by beneficial owner. property, the following further covenants by the person who conveys and is expressed to convey, as beneficial owner, namely,
- (i) that the lease or grant creating the term or estate for which the land is held is, at the time of conveyance, a good, valid and effectual lease or grant of the land conveyed, and is in full force, unforfeited, and unsundered, and in no wise become void or voidable, and that all the rents reserved by, and all the covenants, conditions and agreements contained in the lease or grant and on the part of the lessee or grantee and the persons deriving title under him to be paid, observed and performed, have been paid, observed and performed up to the time of conveyance, and

- (ii) that the person so conveying, or the persons deriving title under him, will at all times, as long as any money remains on the security of the conveyance, pay, observe and perform, or cause to be paid, observed and performed, all the rents reserved by, and all the covenants, conditions and agreements contained in the lease or grant, and on the part of the lessee or grantee and the persons deriving title under him to be paid, observed and performed, and will keep the person to whom the conveyance is made and those deriving title under him indemnified against all actions, proceedings, costs, charges, damages, claims and demands, if any, to be incurred or sustained by him or them by reason of the non-payment of such rent, or the non-observance or non-performance of such covenants, conditions and agreements, or any of them. R.S.O. 1937, c. 155, s. 6.

Implied covenants in mortgages are joint and several.

Imp. Act, 44 and 45 V. c. 41, s. 28.

7. In a mortgage, where more persons than one are expressed to convey as mortgagors, or to join as covenantors, the implied covenants on their part shall be deemed to be joint and several covenants by them, and where there are more mortgagees than one the implied covenant with them shall be deemed to be a covenant with them jointly unless the amount is expressed to be secured to them in shares or distinct sums, in which latter case the implied covenant with them shall be deemed to be a covenant with each severally in respect of the share or distinct sum secured to him. R.S.O. 1937, c. 155, s. 7.

Release of equity of redemption without merger of debt.

8.—(1) A mortgagee of freehold or leasehold property may take and receive from the mortgagor a release of the equity of redemption in the property, or may purchase the same under any judgment or decree or execution without thereby merging the mortgage debt as against any subsequent mortgagee or person having a charge on the same property.

Position of subsequent mortgagee.

(2) Where a prior mortgagee so acquires the equity of redemption of the mortgagor no subsequent mortgagee shall be entitled to foreclose or sell the property without redeeming or selling, subject to the rights of such prior mortgagee, in the same manner as if such prior mortgagee had not acquired the equity of redemption.

Priority under registry.

(3) This section shall not affect any priority or claim any mortgagee may have under the registry laws. R.S.O. 1937, c. 155, s. 8.

9. Where a person entitled to any freehold land by way of mortgage has died, and his executor or administrator has become entitled to the money secured by the mortgage, or has assented to a bequest thereof, or has assigned the mortgage debt, such executor or administrator, if the mortgage money was paid to the testator or intestate in his lifetime, or on payment of the principal money and interest due on the mortgage, or on receipt of the consideration money for the assignment, may convey, assign, release or discharge the mortgage debt and the mortgagee's estate in the land, and such executor or administrator shall have the same power as to any part of the land on payment of some part of the mortgage debt, or on any arrangement for exonerating the whole or any part of the mortgaged land, without payment of money, and such conveyance, assignment, release or discharge shall be as effectual as if the same had been made by the persons having the mortgagee's estate. R.S.O. 1937, c. 155, s. 9.

Powers of
executors of
mortgagee.

10.—(1) In this section, "court" means the Supreme Court. 1943, c. 28, s. 27.

Interpre-
tation.

(2) The payment in good faith of any money to and the receipt thereof by the survivor or survivors of two or more mortgagees, or the executors or administrators of such survivor, or their or his assigns, shall effectually discharge the person paying the same from seeing to the application or being answerable for the misapplication thereof, unless the contrary is expressly declared by the instrument creating the security.

Effect of
receipts of
surviving
mortgagee,
etc.

(3) When a mortgagor or any person entitled to pay off a mortgage desires to do so and the mortgagee, or one of several mortgagees, cannot be found or when a sole mortgagee or the last surviving mortgagee is dead and no probate of his will has been granted or letters of administration issued, or where from any other cause a proper discharge cannot be obtained, or cannot be obtained without undue delay, the court may permit payment into court of the amount due upon the mortgage and may make an order discharging the mortgage.

Where
mortgagee
cannot be
found.

(4) The money paid into court shall be paid out of court with any accrued interest to the mortgagee or mortgagees or to the executor or administrator of the mortgagee or as the court by order for payment into court or any subsequent order may direct.

Payment
out of
money paid
into court.

(5) The court may require notice to be given by advertisement or as may be deemed proper to the mortgagee or those claiming under him either before or after making the order.

Notice to
mortgagee.

When
amount
offered
questioned.

(6) When the amount admitted to be due upon the mortgage appears to be open to question the court may as a condition of making the order require payment into court of a sum in excess of the amount admitted to be due and in such case the additional sum shall be subject to the further order of the court.

Provision for
subsequent
interest and
costs.

(7) The court may require payment into court of an additional sum to answer any claim by the mortgagee for subsequent interest and costs. R.S.O. 1937, c. 155, s. 10 (1-6).

Death of
mortgagee,
order for
discharge.

(8) When a mortgagee has died and all money due upon the mortgage was paid to him in his lifetime or has been paid to a person entitled to receive the same after his death or where in any other case it appears that all money due upon the mortgage has been paid and for any reason a discharge or reconveyance cannot be obtained without undue delay and expense the court may make an order discharging the mortgage. R.S.O. 1937, c. 155, s. 10 (7); 1942, c. 27, s. 1.

Registration
of order
discharging.

(9) Upon the registration of an order discharging a mortgage it shall have the same effect as the registration of a certificate of discharge signed by the mortgagee would have under *The Registry Act*. R.S.O. 1937, c. 155, s. 10 (8).

Rev. Stat.,
c. 336.

Defence
of purchase
for value
without
notice.

11. The purchaser in good faith of a mortgage may, to the extent of the mortgage, and except as against the mortgagor, set up the defence of purchase for value without notice in the same manner as a purchaser of the mortgaged property might do. R.S.O. 1937, c. 155, s. 11.

Exemption
from
liability to
distress.

12. Notwithstanding any stipulation in the mortgage to the contrary, the right of a mortgagee to distrain for interest in arrear upon a mortgage shall be limited to the goods and chattels of the mortgagor, and to such of them as are not exempt from seizure under execution. R.S.O. 1937, c. 155, s. 12.

Limitation
upon right
to distrain.

13.—(1) As against creditors of a mortgagor, or person in possession of mortgaged premises under a mortgagor, the right, if any, to distrain upon the mortgaged premises for arrears of interest or for rent, in the nature of or in lieu of interest under the provisions of any mortgage shall be restricted to one year's arrears of such interest or rent.

When
restriction
to apply.

(2) This restriction shall not apply unless some one of such creditors is an execution creditor, or unless there is an assignee for the general benefit of such creditors appointed before lawful sale of the goods and chattels distrained, nor unless the officer executing such writ of execution or such assignee, by notice in writing to be given to the person dis-

training or his attorney, bailiff, or agent before such lawful sale, claims the benefit of this restriction.

(3) When such notice is given the distrainor shall relinquish to the officer or assignee the goods and chattels so distrained, upon receiving one year's arrears of such interest or rent and his reasonable costs of distress, or if such arrears and costs are not paid or tendered he shall sell only so much of the goods and chattels distrained as is necessary to satisfy one year's arrears of such interest or rent and the reasonable costs of distress and sale, and shall thereupon relinquish any residue of them, and pay any residue of money, proceeds thereof so distrained, to such officer or assignee.

Duty of distrainor when restriction applies.

(4) An officer executing an execution, or an assignee who pays any money to relieve goods and chattels from distress under this section, shall be entitled to reimburse himself therefor out of the proceeds of the sale thereof. R.S.O. 1937, c. 155, s. 13.

Reimbursement of officer or assignee.

14. Goods and chattels distrained by a mortgagee shall not be sold except after such public notice as is required to be given by a landlord who sells goods and chattels distrained for rent. R.S.O. 1937, c. 155, s. 14.

Notice of sale.

15.—(1) Notwithstanding any agreement to the contrary, where default has been made in the payment of any principal money secured by a mortgage of freehold or leasehold property, the mortgagor or person entitled to make such payment may at any time, upon payment of three months interest on the principal money so in arrear, pay the same, or he may give the mortgagee at least three months notice, in writing, of his intention to make such payment at a time named in the notice, and in the event of his making such payment on the day so named he shall be entitled to make the same without any further payment of interest except to the date of payment.

Payment of principal upon default.

(2) If the mortgagor or person entitled to make such payment fails to make the same at the time mentioned in the notice he shall thereafter be entitled to make such payment only on paying the principal money so in arrear and interest thereon to the date of payment together with three months interest in advance.

Exception.

(3) Nothing in this section shall affect or limit the right of the mortgagee to recover by action or otherwise the principal money so in arrear after default has been made. R.S.O. 1937, c. 155, s. 15.

Saving.

16.—(1) Where any principal money or interest secured by a mortgage of freehold or leasehold property is not, under

Right to redeem after five years.

the terms of the mortgage, payable till a time more than five years after the date of the mortgage, then if, at any time after the expiration of such five years, any person liable to pay or entitled to redeem tenders or pays to the person entitled to receive the money the amount due for principal money and interest to the time of such tender or payment, together with three months further interest in lieu of notice, no further interest shall be chargeable, payable or recoverable at any time thereafter on the principal money or interest due under the mortgage. R.S.O. 1937, c. 155, s. 16 (1).

Exceptions. (2) This section shall not apply to any mortgage given by a joint stock company or other corporation nor to any debenture issued by any such company or corporation for the payment of which security has been given on freehold or leasehold property. R.S.O. 1937, c. 155, s. 16 (2), *amended*.

Paying off mortgage when provision made for a lower rate for punctual payment.

17.—(1) Where provision is made in a mortgage that if interest is paid promptly it will be accepted at a lower rate than that provided in the mortgage, and interest at the lower rate has been paid according to such condition up to the time when all the principal money has become payable, any person liable to pay or entitled to redeem shall be entitled to pay the principal money and interest on the same at the lower rate at any time after the time for payment of the principal money on giving three months notice of his intention to make such payment or on paying three months interest at such lower rate in lieu of notice.

Mortgagor failing to pay according to notice.

(2) If the mortgagor or person entitled to make such payment fails to make the same at the time mentioned in the notice he shall thereafter be entitled to make such payment only on paying the principal and interest at the lower rate to the date of payment, together with three months interest in advance. R.S.O. 1937, c. 155, s. 17.

Interpretation.

18.—(1) In this section, "original mortgagor" means any person who by virtue of privity of contract with the mortgagee is personally liable to the mortgagee to pay the whole or any part of the moneys secured by the mortgage.

Right of mortgagee to recover personal judgment.

(2) Notwithstanding any stipulation to the contrary in a mortgage, where a mortgagor has conveyed and transferred the equity of redemption to a grantee under such circumstances that the grantee is by express covenant or otherwise obligated to indemnify the mortgagor with respect to the mortgage, the mortgagee shall have the right to recover from the grantee the amount of the mortgage debt in respect to which the grantee is obligated to indemnify the mortgagor; provided that the right of the mortgagee to recover the amount of the mortgage debt

under this section from the grantee of the equity of redemption shall as against such grantee terminate on the registration of a grant or transfer of the equity of redemption by such grantee to another person unless prior to such registration an action has been commenced to enforce the right of the mortgagee.

(3) Where a mortgagee has the right to recover the whole or any part of moneys secured by a mortgage from an original mortgagor and also has a right by virtue of this section to recover from a grantee of the equity of redemption from a mortgagor, if the mortgagee recovers judgment for the amount of the mortgage debt against the original mortgagor, the mortgagee shall thereupon forever cease to have a right to recover under this section from a grantee, and if the mortgagee recovers judgment under this section against a grantee he shall thereupon forever cease to have a right to recover from the original mortgagor; provided that where there is more than one original mortgagor this section shall not affect the right of a mortgagee after the recovery of judgment against one original mortgagor to recover judgment against the other original mortgagor or mortgagors. 1939, c. 28, s. 1.

19.—(1) In this section, “building mortgage” means any mortgage made for the purpose of financing the construction of a building.

(2) Where, in any building mortgage made on or after the 1st day of July, 1942, it is expressly stated that it is a building mortgage made pursuant to this section, no action may be brought by the mortgagee after the expiration of one year from the date of the maturity of the mortgage whereby to recover payment from the person who executed the mortgage, of the whole or any part of the moneys therein secured, if such person has made a *bona fide* sale of the property and has conveyed and transferred the equity of redemption to a grantee under such circumstances that the grantee is by express covenant or otherwise obligated to indemnify such person with respect to the mortgage. 1942, c. 27, s. 2, *amended*.

PART II

STATUTORY POWERS

20. Where any principal money is secured by mortgage of land, the mortgagee shall, at any time after the expiration of four months from the time when the principal money has become payable, according to the terms of the mortgage, or after any interest on the principal money has been in arrear for six months, or after any omission to pay any premium on any insurance which, by the terms of the mort-

Limit of
right of
action.

Interpre-
tation.

When no
action may
be brought.

Powers inci-
dent to mort-
gages after
default for
certain time.
Imp. Act,
44 and 45 v.
c. 41, s. 19
(1).

gage, ought to be paid by the mortgagor, have the following powers to the like extent as if they had been in terms conferred by the mortgage but not further, namely:

power of
sale;

- (a) a power to sell, or concur with any other person in selling, the whole or any part of the mortgaged property by public auction or private contract subject to any reasonable conditions he may think fit to make, and to buy in at an auction and to rescind or vary contracts for sale, and to re-sell the land, from time to time, in like manner without being answerable for any loss occasioned thereby;

power to
insure.

- (b) a power to insure and keep insured against loss or damage by fire any building or any effects or property of an insurable nature, whether affixed to the freehold or not, being or forming part of the mortgaged property, and the premiums paid for any such insurance shall be a charge on the mortgaged property, in addition to the mortgage money and with the same priority and with interest at the same rate as the mortgage money. R.S.O. 1937, c. 155, s. 18.

Receipts for
purchase
money
sufficient
discharges.

21. A receipt for purchase money given by the person exercising the power of sale conferred by section 20 shall be a sufficient discharge to the purchaser, who shall not be bound to see to the application of the purchase money. R.S.O. 1937, c. 155, s. 19.

Notice
before sale.

22.—(1) No sale under the power conferred by section 20 shall be made until after two months notice in writing (Form 1) has been given to every subsequent encumbrancer, and to the mortgagor, either personally or at his usual or last place of residence in Ontario.

When to
be given.

(2) The notice may be given at any time after any default in making a payment provided for by the mortgage.

Case of an
infant.

(3) In case of the death of the person entitled subject to the mortgage, and of his interest passing to an infant, the notice shall be given to his personal representative as well as to the infant.

Service upon
infant.

(4) The notice to the infant shall be served upon his guardian, and if he has no guardian upon the Official Guardian, and in every case upon the infant himself if over the age of 12 years. R.S.O. 1937, c. 155, s. 20.

Title of
purchaser.

23. Where a conveyance has been made in professed exercise of the power of sale conferred by section 20 the title of

the purchaser shall not be liable to be impeached on the ground that no case had arisen to authorize the exercise of such power, or that such power had been improperly or irregularly exercised, or that such notice has not been given; but any person damnified by an unauthorized, improper or irregular exercise of the power shall have his remedy against the person exercising the power. R.S.O. 1937, c. 155, s. 21. Imp. Act, 44 and 45 V. c. 41, s. 21 (2).

24. The money arising from the sale shall be applied by the person receiving the same as follows: Application of purchase money.

Firstly, in payment of all the expenses incident to the sale or incurred in any attempted sale;

Secondly, in discharge of all interest and costs then due in respect of the mortgage under which the sale was made;

Thirdly, in discharge of all the principal money then due in respect of the mortgage; and

Fourthly, subject to the provisions of section 9 of *The Dower Act*, in payment of the amounts due to the subsequent encumbrancers according to their priorities, Rev. Stat., c. 109.

and the residue shall be paid to the mortgagor. R.S.O. 1937, c. 155, s. 22.

25. The person exercising the power of sale shall have power to convey or assign to and vest in the purchaser the property sold for all the estate and interest therein of the mortgagor and of which he had power to dispose. R.S.O. 1937, c. 155, s. 23. Conveyance to the purchaser.

26. At any time after the power of sale has become exercisable the person entitled to exercise the same shall be entitled to demand and recover from the mortgagor all deeds and documents in his possession or power relating to the mortgaged property, or to the title thereto, which he would have been entitled to demand and recover if the property had been conveyed, appointed, surrendered or assigned to and was then vested in him for all the estate and interest of the mortgagor and of which he had power to dispose, and where the legal estate is outstanding in a trustee the mortgagee, or any purchaser from him, shall be entitled to call for a conveyance of the legal estate to the same extent as the mortgagor could have called for such a conveyance if the mortgage had not been made. R.S.O. 1937, c. 155, s. 24. Right to title deeds and conveyance of legal estate.

Application
of Part II.

27. So much of this Part as confers a power to sell shall not apply in the case of a mortgage which contains a power of sale except as provided in section 28, and so much as confers a power to insure shall not apply in the case of a mortgage which contains a power to insure; nor shall any of the provisions of this Part apply to a mortgage which contains a declaration that this Part shall not apply thereto. R.S.O. 1937, c. 155, s. 25.

Mortgagee's
option as
to pro-
ceedings.
Rev. Stat.,
c. 362.

28.—(1) Where a mortgage made in pursuance of *The Short Forms of Mortgages Act* contains a power of sale in the form of words numbered 14 in Column One of Schedule B to that Act, the mortgagee may, in exercising the power, in lieu of taking the proceedings provided for by such form in Column Two of that Schedule, take proceedings under and have the benefit of the provisions of this Part, except that such power shall not be exercisable until after at least four months default and at least two months notice, or such longer periods as may by the power contained in such mortgage be fixed therefor, and this Part shall apply to a sale made under such power.

Idem.
Rev. Stat.,
c. 362.

(2) Where a mortgage purporting to be made in pursuance of *The Short Forms of Mortgages Act* contains a power of sale which provides for a sale without notice, the mortgagee may take proceedings to sell under and have the benefit of the provisions of this Part as fully and effectually as if the mortgage had not contained a power of sale. R.S.O. 1937, c. 155, s. 26.

PART III

GENERAL PROVISIONS AS TO POWER OF SALE

Contents
of notice.

29. A notice of exercising a power of sale shall state the amounts claimed to be due for principal, interest and costs respectively. R.S.O. 1937, c. 155, s. 27.

Restrictions
as to pro-
ceedings.

30.—(1) Where, pursuant to any condition or proviso contained in a mortgage, there has been made or given a demand or notice either requiring payment of the money secured by the mortgage, or any part thereof, or declaring an intention to proceed under and exercise the power of sale therein contained, no further proceeding and no action either to enforce the mortgage, or with respect to any clause, covenant or provision therein contained, or to the mortgaged property or any part thereof, shall, until after the lapse of the time at or after which, according to such demand or notice, payment of the money is to be made or the power of sale is to be exercised or proceeded under, be commenced or taken unless and until an order permitting the same has been obtained

from a judge of the county or district court of the county or district in which the mortgaged property or any part thereof is situate, or from a judge of the Supreme Court.

(2) The order may be obtained *ex parte* or upon such notice as the judge may direct upon such proof as satisfies the judge that it is reasonable and equitable that the proposed action or proceeding should be permitted. Proof on which order may be granted.

(3) This section shall not apply to proceedings to stay waste or other injury to the mortgaged property. R.S.O. 1937, c. 155, s. 28. Exception.

31.—(1) Where such demand or notice requires payment of all money secured by or under a mortgage the person making such demand or giving such notice shall be bound to accept and receive payment of the same if made as required by the terms of such demand or notice. Payment made in terms of notice.

(2) If there is a dispute as to the costs payable by the person by or on whose behalf such payment is either made or tendered such costs shall, on three clear days notice to such person by the person claiming the same, be taxed and ascertained by the clerk of the county or district court, or by the local master of the county or district in which the mortgaged property or any part thereof is situate. Payment or tender of costs.

(3) Where the time limited by the demand or notice requiring payment expires before the taxation of the costs has been completed, the amount due apart from the costs claimed may be paid, and payment of the amount allowed for costs within ten days after the issue of a certificate of taxation shall be deemed a compliance with the demand or notice. Compliance with demand.

(4) A mortgagee's costs of and incidental to the exercise of a power of sale, whether under this Part or otherwise, may, without an order, be taxed by one of the taxing officers of the Supreme Court at Toronto or by a local master having jurisdiction in the county or district in which the mortgaged property or any part of it is situate at the instance of any person interested. Costs, taxation of.

(5) The costs of the taxation shall be in the discretion of the taxing officer. R.S.O. 1937, c. 155, s. 29. Discretion as to.

FORM 1

(Section 22)

NOTICE OF SALE UNDER MORTGAGE

I hereby require you on or before the.....day of.....19....,
(a day not less than two calendar months from the service of the notice, and
not less than six months after the default), to pay off the principal money

and interest secured by a certain mortgage dated the.....day of19...., and expressed to be made between (*here state parties and describe mortgaged property*), which mortgage was registered on the.....day of.....19...., (*and if the mortgage has been assigned add: and has since become the property of the undersigned*). And I hereby give you notice that the amounts due on the said mortgage for principal, interest and costs respectively, are as follows: (*set the same forth*).

And unless the principal money, interest and costs are paid on or before the said.....day of.....19...., I shall sell the property comprised in the said mortgage under the authority of *The Mortgages Act*.

Dated the.....day of.....19....

R.S.O. 1937, c. 155, Form I.

CHAPTER 240

The Mortgage Tax Act

1.—(1) The council of any municipality having a population of 200,000 or more may by by-law provide that a tax not exceeding one-tenth of one per cent upon the sum of money secured by each instrument by way of mortgage or charge, registered in a registry or land titles office upon lands within the municipality, shall be paid by the party registering the same and any such by-law may be repealed, altered or amended from time to time.

Taxation of mortgages by municipality having population of 200,000 or more.

(2) Upon the passing of any by-law under subsection 1 by the council of a municipality, a copy thereof, certified by the clerk of the municipality under the seal of the corporation, shall be deposited with each registrar and master whose registry or land titles division covers land in the municipality, and from and after the deposit of the by-law as aforesaid, such tax as is provided shall be collected by the registrar or master as the case may be, before he registers the mortgage. R.S.O. 1937, c. 172, s. 1.

By-law to be deposited and tax collected.

2.—(1) Any registrar or master, not paid by salary, shall be entitled to retain to his own use two and one-half per cent of the moneys collected by him.

Registrar entitled to percentage.

(2) The registrar and master shall, within the first week of each month, furnish the Inspector of Legal Offices with a statement of the amount collected during the previous month in respect of the tax, and shall pay over the amount thereof, less the percentage provided for in subsection 1, to the treasurer of the municipality. R.S.O. 1937, c. 172, s. 2.

Payment of tax to treasurer.

3. Where the amount to be secured by any mortgage is not clearly stated therein, or where the registrar or master has any doubt as to the amount intended to be secured, he shall require the full and true amount of the moneys intended to be secured by the mortgage to be proved by affidavit to be filed with him. R.S.O. 1937, c. 172, s. 3.

Registrar may require affidavit as to amount of mortgage.

4.—(1) Notwithstanding anything in this Act or in any by-law heretofore or hereafter passed under subsection 1 of section 1, and notwithstanding that the same instrument may be registered or entered more than once, or that more than one

Tax to be payable once only.

instrument may be registered or entered for securing the same sum of money, or that any such instrument or instruments may be registered or entered in more than one registry office or land titles office, or in a registry office and land titles office, the tax imposed by any such by-law shall be payable once only in respect of any one transaction for securing money by way of mortgage or charge, or by mortgage and charge, and shall be payable upon delivering to the registrar, or lodging in the land titles office the first instrument registered or lodged in the transaction.

Tax not to be collected when receipt for payment on prior registration produced.
Rev. Stat., cc. 197, 336.

(2) Where lands upon which a sum of money is secured are registered under *The Land Titles Act*, and other lands upon which the same sum of money is secured are subject to *The Registry Act*, and the instruments are registered or lodged and appear to be executed as part of the same transaction for securing such sum of money, and it appears by the production of the receipt of the master or registrar that the tax has been paid upon the registering or lodging of one of such instruments, the master or registrar shall not require any further payment of the tax before registering or entering the instrument delivered to him.

Division of tax where lands in different registry divisions.

(3) Where the lands upon which any sum of money is charged are partly in one registry division and partly in another, or parts of the lands are registered under *The Land Titles Act*, and parts are subject to *The Registry Act*, the registrar or master receiving the tax shall retain the percentage mentioned in subsection 1 of section 2, and shall pay over to the registrar or master in whose office any mortgage or charge is subsequently registered or entered for securing the same sum of money, such proportion of the percentage as may be agreed upon between them, and in case of disagreement, the amount to be paid shall be determined by the Inspector of Legal Offices. R.S.O. 1937, c. 172, s. 4.

No tax on collateral instrument.

5. Where an instrument purports to be executed concurrently with or as collateral security to a mortgage or charge already registered, the registrar or master shall register or enter such concurrent or collateral instrument without requiring the payment of the tax. R.S.O. 1937, c. 172, s. 5.

Tax not to be collected on assignment of lease as collateral security.

6. Where any sum of money is charged upon freehold lands and leasehold lands, and a mortgage or assignment of the lease is registered or lodged as security in addition to and separately from the mortgage or charge upon the freehold lands, and the person delivering the mortgage or charge to the registrar or master produces a receipt for payment of the tax upon the registration of any other mortgage or charge or assignment, given as security for the same sum, the regis-

trar or master shall receive and register or enter the mortgage, charge or assignment without requiring the payment of the tax. R.S.O. 1937, c. 172, s. 6.

7. Where a mortgage or charge recites that it is given as a renewal of a mortgage or charge already registered, no tax shall be payable upon the registration of such renewal mortgage or charge, except to the extent by which the amount secured by such renewal mortgage or charge exceeds the amount required to pay off the original mortgage or charge but the registrar or master shall not register or enter such renewal mortgage or charge until the full and true amount of the moneys required to pay off such original mortgage or charge has been proven by affidavit filed with him. R.S.O. 1937, c. 172, s. 7.

Tax not to be collected on renewal except as to additional amount.

8. Where a mortgage or charge recites that it is given to secure moneys, a portion of which moneys is required to pay off a prior mortgage or charge already registered, no tax shall be payable upon the registration of such mortgage or charge except to the extent by which the amount secured by such mortgage or charge exceeds the amount required to pay off the prior mortgage or charge, but the registrar or master shall not register or enter the new mortgage or charge until the full and true amount of the moneys required to pay off the prior mortgage or charge has been proven by affidavit filed with him. R.S.O. 1937, c. 172, s. 8.

Tax not to be collected on amount required to pay off prior mortgage.

9. Where the right of the registrar or master to require the payment of the tax under this Act or any portion thereof, is disputed by the person registering or lodging a mortgage or charge, the tax may be paid under protest, and the registrar or master shall give a receipt in writing signed by him for the amount paid, and shall state that the same has been received subject to protest, and shall thereupon refer the matter to the decision of the Inspector of Legal Offices, who may order the refund of the tax or any portion thereof to the person paying the same. R.S.O. 1937, c. 172, s. 9.

Proceedings where tax disputed.

CHAPTER 241

The Mortmain and Charitable Uses Act

1.—(1) In this Act,

Interpreta-
tion.

- (a) "assurance" includes a gift, conveyance, appointment, lease, transfer, settlement, mortgage, charge, encumbrance, devise, bequest and every other assurance by deed, will or other instrument, and "assure" and "assuror" have a corresponding meaning;
- (b) "full and valuable consideration" includes such a consideration either actually paid upon or before the making of the assurance, or reserved or made payable to the vendor or any other person by way of rent, rent charge, or other annual payment, in perpetuity, or for any term of years, or other period, with or without a right of re-entry for non-payment thereof, or partly paid and partly reserved, as aforesaid; Imp. Acts 51-52 Vict. c. 42, s. 10; and 54-55 Vict. c. 73, s. 3.
- (c) "land" includes tenements and hereditaments corporeal and incorporeal of whatever tenure, but not money secured on land, or other personal estate arising from or connected with land;
- (d) "Minister" means the member of the Executive Council for the time being charged with the administration of this Act;
- (e) "will" includes codicil.

(2) The following shall be deemed to be charitable uses within the meaning of this Act:

Charitable
uses.
Imp. Act
43 Eliz. c. 4,
s. 1.

- (a) the relief of poverty;
- (b) education;
- (c) the advancement of religion; and
- (d) any purpose beneficial to the community, not falling under the foregoing heads. R.S.O. 1937, c. 147, s. 1.

MORTMAIN

2. Land shall not be assured to or for the benefit of, or acquired by or on behalf of any corporation in mortmain, General prohibition against mortmain.

otherwise than under the authority of a licence from His Majesty, or of a statute for the time being in force, and if any land is so assured, otherwise than as aforesaid, the land shall be forfeited to His Majesty from the date of the assurance, and His Majesty may enter on and hold the land accordingly. R.S.O. 1937, c. 147, s. 2.

Imp. Act 51-
52 Vict. c. 42,
s. 1.

Power to
grant
licences
in mortmain.

3. The Lieutenant-Governor in Council may grant to any person or corporation a licence in such form as he thinks fit to assure land in mortmain in perpetuity or otherwise, and may grant to any corporation a licence to acquire land in mortmain, and to hold such land in perpetuity or otherwise. R.S.O. 1937, c. 147, s. 3.

Imp. Act 51-
52 Vict. c. 42,
s. 2.

Saving for
rents and
services.

4. No entry or holding by or forfeiture to His Majesty under section 2 shall merge or extinguish or otherwise affect any rent or service which may be due to His Majesty in respect of any land. R.S.O. 1937, c. 147, s. 4.

Imp. Act 51-
52 Vict. c. 42,
s. 3

Regulations,

5.—(1) The Lieutenant-Governor in Council may make regulations respecting,

evidence
upon appli-
cation;

(a) the evidence required, upon the application for a licence in mortmain, as to the creation of the corporation, its powers and objects and its existence as a valid and subsisting corporation;

service of
process;

(b) the appointment and continuance by the corporation of a person or corporation as its representative in Ontario on whom service of process, notices or other proceedings may be made, and the powers to be conferred on such representative;

forms,
duration,
etc.

(c) the forms, duration and extent of licences, and the forms of powers of attorney, applications, notices, statements, returns and other documents relating to applications and other proceedings under this Act.

Orders
as to
particular
cases.

(2) The Lieutenant-Governor in Council may make orders as to particular cases where the general regulations may not be applicable or where they would cause unnecessary inconvenience or delay.

Proof to
be furnished
on applica-
tion.

(3) Upon the application for a licence in mortmain, the applicant shall establish to the satisfaction of the Minister, or such other officer as may be charged by him to report thereon, that the provisions of this Act and the regulations have been complied with, and the Minister, Deputy Minister or such other officer may, for that or for any other purpose under this Act, take evidence under oath.

(4) There shall be paid to His Majesty for the public use ^{Fees.} of Ontario for every licence such fees as may be prescribed by the Lieutenant-Governor in Council. R.S.O. 1937, c. 147, s. 5.

CHARITABLE USES

6. Save as otherwise provided in this Act, every assurance, other than by will, of land or personal estate to be laid out in the purchase of land to or for the benefit of any charitable use shall be void unless made, ^{Conditions under which assurances may be made to charitable uses.}

- (a) to take effect in immediate possession for such charitable use;
- (b) without any power of revocation, reservation, condition or provision for the benefit of the assurator or of any person claiming under him; and
- (c) at least six months before the death of the assurator, and if of stock in the public funds by transfer thereof in the public books kept for the transfer of stock at least six months before such death,

provided that the assurance or any instrument forming part of the same transaction may contain all or any of the following conditions, so however that they reserve the same benefits to persons claiming under the assurator as to the assurator himself, namely:

- (i) the grant or reservation of a peppercorn or other nominal rent;
- (ii) the grant or reservation of mines or minerals;
- (iii) the grant or reservation of any easement;
- (iv) covenants or provisions as to the erection, repair, position, or description of buildings, the formation or repair of streets or roads, or as to drainage or nuisances, and covenants or provisions of the like nature for the use and enjoyment as well of the land comprised in the assurance as of any other adjacent or neighbouring land;
- (v) a right of entry on non-payment of any such rent or on breach of any such covenant or provision; or
- (vi) any stipulations of the like nature for the benefit of the assurator or of any person claiming under him; and

provided that nothing in this section shall apply to or affect any such assurance made for full and valuable consideration. R.S.O. 1937, c. 147, s. 6.

Necessity
for sale.

7.—(1) Subject to the provisions hereinafter contained where land is assured otherwise than by will to or for the benefit of any charitable use the same shall notwithstanding anything contained in the deed or other instrument of assurance be sold within two years from the date of the assurance or within such extended period as may be determined by a judge of the Supreme Court.

Idem.

(2) If the land is not sold within the two years or within such extended period it shall vest forthwith in the Public Trustee and subsection 2 of section 10 shall apply thereto.

When
sanctioned.

(3) A judge of the Supreme Court, if satisfied that the land so assured is required for actual occupation for the purposes of the charity and not as an investment, may by order sanction the retention of the land. R.S.O. 1937, c. 147, s. 7.

EXEMPTIONS

Interpreta-
tion.

8.—(1) In this section,

- (a) "public park" includes any park, garden, or other land dedicated or to be dedicated to the recreation of the public;
- (b) "school" means a school, or department of a school, at which education is given in literature, art, science or mathematics, or a vocational or technical school;
- (c) "schoolhouse" includes the teacher's dwelling house, the playground, if any, and the offices and premises belonging to or required for a school;
- (d) "public museum" includes buildings used, or to be used, for the preservation of a collection of paintings or other works of art, or of objects of natural history, or of mechanical, scientific or philosophical inventions, instruments, models or designs, and dedicated or to be dedicated to the recreation of the public, together with any libraries, reading rooms, laboratories and other offices and premises used or to be used in connection therewith.

Imp. Act
51-52 V. c. 42,
s. 6.

Assurances
for a public
park, school,
or museum.

(2) Notwithstanding anything in this Act, land or personal estate to be laid out in the purchase of land, may be assured for the following purposes:

- (a) for a public park;
- (b) for a public museum;
- (c) for a public library;
- (d) for a school or schoolhouse.

(3) Land assured for the purposes of a school or school-house and not required for actual use and occupation for such purposes or the part thereof not so required shall be sold within two years from the date of the assurance or, in the case of a will, from the death of the testator, or such extended period as may be determined by a judge of the Supreme Court, and the provisions of subsection 2 of section 10 and of section 12 shall apply. R.S.O. 1937, c. 147, s. 8.

Sale of land assured for school if not required for actual use.

9. Sections 2 and 6 shall not apply to the following assurances:

Assurances for certain purposes.

- (a) an assurance of land or personal estate to be laid out in the purchase of land, to or in trust for any incorporated university, college or school in Ontario, or for the support and maintenance of the students thereat;
- (b) an assurance, otherwise than by will, to trustees on behalf of any society or body of persons, incorporated or unincorporated, associated together for religious purposes, or for the promotion of education, art, literature, science or other like purposes, of land not exceeding two acres, for the erection thereon of a building for such purposes, or any of them, or whereon a building used or intended to be used for such purposes, or any of them, has been erected. R.S.O. 1937, c. 147, s. 9.

Imp. Act 51-52 V. c. 42, s. 7.

LAND DEVISED BY WILL

10.—(1) Land may be devised by will to or for the benefit of any charitable use, but, except in the cases provided for by sections 8 and 9 and except as otherwise provided herein, shall, notwithstanding anything to the contrary in the will, be sold within two years from the death of the testator, or such extended period as may be determined by a judge of the Supreme Court.

Power to devise land for charitable use.

(2) So soon as the two years or such extended period have expired without the completion of the sale of the land, the land shall vest forthwith in the Public Trustee who shall cause the same to be sold with all reasonable speed and after payment of the costs and expenses incurred in or connected with such sale and proceedings shall pay the proceeds to the trustees for the charity. R.S.O. 1937, c. 147, s. 10.

Where land remains unsold after expiration of two years.

11. Any personal estate by will directed to be laid out in the purchase of land to or for the benefit of any charitable use, shall, except as hereinafter provided, be held to or for the

Personal estate directed to be laid out in land.

benefit of the charitable use as though there had been no direction to lay it out in the purchase of land. R.S.O. 1937, c. 147, s. 11.

Power to retain land in certain cases.

12. A judge of the Supreme Court, if satisfied that land devised by will to or for the benefit of any charitable use, or proposed to be purchased out of personal estate by will directed to be laid out in the purchase of land, is required for actual occupation for the purposes of the charity and not as an investment, may by order sanction the retention or acquisition, as the case may be, of such land. R.S.O. 1937, c. 147, s. 12.

GIFTS AND BEQUESTS TO CERTAIN PUBLIC BODIES

Power of certain public bodies to accept gifts to charitable uses.

13.—(1) The Government of Ontario, a municipal corporation, a school board, a public library board or association, a public hospital board and trustees empowered to administer or hold property for charitable uses may have, take, hold and enjoy by gift, grant, devise, conveyance or bequest real or personal property of any nature or kind and wherever situate, whether within or without Ontario, or the proceeds thereof upon the terms expressed in the gift, grant, devise, bequest or conveyance whereby the same is given, granted, devised, bequeathed or conveyed to such body.

Agreement with donor as to administration.

(2) Any such body may, subject always to the provisions of the Act by or under the authority of which it exists and to any law regulating or limiting its power to contract debts, enter into an agreement for the holding, management, administration or disposition of any such property with the person giving, granting, conveying, devising or bequeathing the same to such public body upon such terms as may be agreed upon between the parties to any such gift, grant, devise, bequest or conveyance.

Necessity for sale within two years.

(3) Land so given, granted, devised, bequeathed or conveyed and not required for actual use and occupation for the purposes of the trust upon which it was given, granted, devised, conveyed or assured to such public body shall be sold within two years from the date of the gift, grant, devise, conveyance or assurance or, in the case of a will, from the death of the testator, or such extended period as may be determined by a judge of the Supreme Court, and the provisions of subsection 2 of section 10 and of section 12 shall apply.

Retroactive effect of section.

(4) This section shall apply to gifts, grants, devises, bequests and conveyances heretofore made as well as to such as may hereafter be made. R.S.O. 1937, c. 147, s. 13.

SUPPLEMENTAL

14.—(1) In every case of a breach or supposed breach of any trust created for charitable purposes, or whenever the direction or order of a court is deemed necessary for the administration of any trust for charitable purposes, any two or more persons may present a petition to the Supreme Court stating such complaint and praying such relief as the nature of the case may require, and the court may hear the petition in a summary way, and upon such affidavits or such other evidence as is produced upon the hearing, may determine the same, and make such order therein, and with respect to the costs of the application, as shall seem just, and any order so made shall be subject to appeal as if made in an action.

(2) Every such petition shall be signed by the persons preferring the same in the presence of and shall be attested by their solicitor, and shall be submitted to and may be allowed by the Attorney-General, and such allowance shall be certified by him before any such petition shall be presented. R.S.O. 1937, c. 147, s. 14.

15. Nothing in this Act shall apply so as to limit or restrict the right possessed by any corporation under any other Act, or affect any charter or licence in force at the passing of this Act enabling land to be assured or held in mortmain. R.S.O. 1937, c. 147, s. 15.

Procedure in cases of breach of a charitable trust, etc., or where order necessary for administration.

Execution of petition and certificate by Attorney-General. Imp. Act 52 Geo. 3, c. 101, ss. 1 and 2.

Saving for existing licences, etc.

CHAPTER 242

The Mothers' Allowances Act**1. In this Act,**Interpre-
tation.

- (a) "allowance" means allowance under this Act;
- (b) "beneficiary" means a person receiving an allowance;
- (c) "Commission" means The Mothers' Allowances Commission;
- (d) "investigator" means any person designated as such under the regulations;
- (e) "local authority" means an investigator and in addition where there is a welfare unit means the public welfare administrator or where there is no welfare unit means the clerk of the municipality or such other person as the council with the approval of the Minister may appoint;
- (f) "local board" means local board provided for in the regulations;
- (g) "Minister" means Minister of Public Welfare;
- (h) "permanently unemployable" means permanently unemployable by reason of mental or physical disability;
- (i) "regulations" means regulations made under this Act. 1948, c. 58, s. 1; 1949, c. 95, s. 9 (1).

2.—(1) Subject to this Act and the regulations a monthly allowance may be paid towards the support of the dependent children of a mother who,

Conditions
under which
allowance
may be paid

- (a) is a widow, or the wife of a man who is permanently unemployable, or of a man who has deserted her and has not been heard of for at least one year;
- (b) was resident in Ontario at the time of the death, permanent unemployability or desertion by the father of the child or children on whose behalf the allowance is to be made, and for a period of two years immediately prior to the application for an allowance;
- (c) is resident in Ontario at the time of the application for an allowance;

(d) continues to reside in Ontario with her dependent children while in receipt of an allowance; and

(e) has resident with her one or more of her own children under sixteen years of age and has not adequate means to care properly for such child or children without the assistance of an allowance.

Where husband permanently unemployable.

(2) Where a mother who otherwise qualifies for an allowance has a permanently unemployable husband, an allowance may be granted for the husband in the same amount and manner as though the husband were a dependent child, provided that the allowance for the husband shall cease when the youngest child becomes sixteen years of age.

Allowance to foster mother.

(3) A like allowance may be paid to a woman who is resident as aforesaid and has resident with her one or more orphan children under sixteen years of age and is the grandmother, sister, aunt or other suitable person acting as the foster mother of such child or children and has not adequate means to care properly for such child or children without the assistance of an allowance.

Reaching sixteen years of age during school year.

(4) Where a child in respect of whom an allowance is being paid is attending school and reaches the age of sixteen years during the school year, the allowance shall, subject to this Act and the regulations, continue to be paid until the conclusion of the school year unless the child sooner ceases to attend school.

Allowance in special cases.

(5) In cases presenting special circumstances where investigation has shown the advisability of an allowance being granted to the children dependent upon a mother or foster mother who is not strictly eligible under the terms of this section, the Lieutenant-Governor in Council may direct the payment of an allowance and fix the amount thereof, notwithstanding that such payment is not expressly provided for in this Act. 1948, c. 58, s. 2.

Mothers' Allowances Commission.

3.—(1) The Lieutenant-Governor in Council may appoint one, two or three persons as a commission to be known as The Mothers' Allowances Commission.

Chairman.

(2) When the Commission consists of more than one person the Lieutenant-Governor in Council may designate one of them as chairman.

Quorum.

(3) When the Commission consists of three persons, a majority shall be a quorum. 1948, c. 58, s. 3.

Duties of Commission.

4. It shall be the duty of the Commission,

- (a) to receive applications for allowances; and
- (b) to determine the eligibility of each applicant to receive an allowance, and where the applicant is eligible, to determine the amount thereof and direct payment accordingly. 1948, c. 58, s. 4.

5. Subject to the right of the Commission to rescind or amend any determination or direction made by it, every determination and direction of the Commission shall be final and shall not be subject to review by any court of law or otherwise. 1948, c. 58, s. 5.

6. The Lieutenant-Governor in Council may make regulations,

- (a) prescribing the maximum amounts of allowances;
- (b) providing for the payment of the whole or part of the cost of providing medical and dental services to beneficiaries and their dependants under this Act;
- (c) governing the manner of making application for an allowance;
- (d) providing for the suspension and cancellation of allowances;
- (e) providing for the designation of persons as investigators and prescribing their powers and duties;
- (f) prescribing the powers and duties of local authorities;
- (g) providing for the payment of the expenses incurred by local authorities in connection with this Act, and their remuneration;
- (h) providing for the appointment of local boards and prescribing their powers and duties;
- (i) providing for the furnishing of notices and information by local authorities to the Commission and by the Commission to local authorities;
- (j) providing for the making of investigations respecting persons to whom allowances may be paid or who are in receipt of allowances or by whom or on whose behalf application has been made for an allowance;
- (k) prescribing the material or proof of any fact, including evidence under oath, that shall be furnished as a condition precedent to the payment of an allowance;
- (l) fixing the intervals at which and the manner in which allowances shall be paid;

- (m) prescribing forms for use under this Act;
- (n) respecting any other matter necessary or advisable to carry out effectively the purposes of this Act. 1948, c. 58, s. 6.

Local
author-
ities,
appoint-
ment of;

7.—(1) Where there is no welfare unit, the council of any municipality may, subject to the approval of the Minister, appoint any person as a local authority for such municipality for the purposes of this Act, but until such an appointment is made the clerk of the municipality shall be the local authority. 1948, c. 58, s. 7 (1); 1949, c. 95, s. 9 (2).

taking
affidavits.

(2) Every person who is appointed as a local authority shall be *ex officio* a commissioner for taking affidavits for the purposes of this Act. 1948, c. 58, s. 7 (2), *amended*.

Allowances
and ex-
penses,
how payable.

8. Allowances and the expenses of administration of this Act shall be payable out of such moneys as may be appropriated therefor by the Legislature. 1948, c. 58, s. 8.

CHAPTER 243

The Municipal Act

PRELIMINARY

1. In this Act,Interpreta-
tion.

- (a) "arbitration" means an arbitration under the provisions of this Act;
- (b) "bridge" means a public bridge, and includes a bridge forming part of a highway or on, over or across which a highway passes;
- (c) "city", "town", "village", "township" and "county" respectively mean city, town, village, township or county, the inhabitants of which are a body corporate within the meaning and for the purposes of this Act;
- (d) "Department" means Department of Municipal Affairs;
- (e) "electors", when applied to a municipal election means the persons entitled to vote at a municipal election; when applied to voting on a money by-law means the persons entitled to vote on the by-law; and when applied to voting on any other by-law or on a resolution or question unless otherwise provided by the Act, by-law or other authority under which the vote is taken, means municipal electors;
- (f) "highway" means a common and public highway, and includes a street and a bridge forming part of a highway or on, over or across which a highway passes;
- (g) "land" includes lands, tenements and hereditaments, and any estate or interest therein, and any right or easement affecting them, and land covered with water;
- (h) "local municipality" means city, town, village and township;
- (i) "member", referring to a member of a council, includes the head of the council and a member of a board of control;
- (j) "money by-law" means a by-law for contracting a debt or obligation or for borrowing money;

- (k) "Municipal Board" means Ontario Municipal Board;
 - (l) "municipal electors" means the persons entitled to vote at a municipal election;
 - (m) "municipality" means a locality the inhabitants of which are incorporated;
 - (n) "population" means population as determined by the last preceding census taken under the authority of the Parliament of Canada, or under a by-law of the council, or by the last preceding municipal enumeration by the assessor whichever is the latest, or by such means as the Municipal Board may direct;
 - (o) "prescribed" means prescribed by or under the authority of this Act;
 - (p) "published" means published in a newspaper in the municipality to which what is published relates, or which it affects, or if there is no newspaper published in the municipality, in a newspaper published in an adjacent or neighbouring municipality; and "publication" has a corresponding meaning;
 - (q) "separated town" means a town separated for municipal purposes from the county in which it is situate;
 - (r) "Supreme Court" means Supreme Court of Ontario;
 - (s) "township" includes a union of townships and a municipality composed of two or more townships;
 - (t) "two-thirds vote" means the affirmative vote of two-thirds of the members of a council present at a meeting thereof;
 - (u) "unorganized territory" means that part of Ontario without county organization;
 - (v) "urban municipality" means city, town and village.
- R.S.O. 1937, c. 266, s. 1.

Evidence
may be
taken in
shorthand.

2.—(1) Where under this Act evidence is taken orally before a special examiner or a judge he may direct that the evidence be taken in shorthand by a stenographic reporter.

Fees of
reporter,
how paid.

(2) The fees of the stenographic reporter including those for the transcribing of his notes shall be paid by the party on whose behalf the evidence is taken, and the same shall form part of the costs of the proceedings in which the evidence is taken. R.S.O. 1937, c. 266, s. 2.

Registration
in office of
land titles.
Rev. Stat.,
c. 197.

3. Where registration in a registry office is prescribed or provided for by this Act it shall mean where *The Land Titles*

Act is applicable, registration in the office of the master or local master of titles of the locality in which the land is situate. R.S.O. 1937, c. 266, s. 3.

4. A person in the actual occupation of land under an agreement with the owner for the purchase of it shall be deemed to be the owner, and the unpaid purchase money shall be deemed to be an encumbrance on the land. R.S.O. 1937, c. 266, s. 4.

When occupant deemed to be owner.

5. Where power to acquire land is conferred upon a municipal corporation by this or any other Act, unless otherwise expressly provided, it shall include the power to acquire by purchase or otherwise and to enter on and expropriate. R.S.O. 1937, c. 266, s. 5.

Power to acquire includes expropriation.

6. Except where otherwise expressly provided, this Act shall not affect the provisions of any special Act relating to a particular municipality. R.S.O. 1937, c. 266, s. 6.

Special Acts not affected.

CORPORATIONS

7. The inhabitants of every county, city, town, village and township shall be a body corporate for the purposes of this Act. R.S.O. 1937, c. 266, s. 7.

Inhabitants of municipalities to be bodies corporate.

8. The name of the body corporate shall be "*The Corporation of the County [United Counties, City, Town, Village, Township (as the case may be)] of (naming the municipality)*". R.S.O. 1937, c. 266, s. 8.

Names of municipal corporations.

9. The powers of a municipal corporation shall be exercised by its council. R.S.O. 1937, c. 266, s. 9.

Council to exercise corporate powers.

PART I

FORMATION OF NEW CORPORATIONS AND ALTERATIONS OF BOUNDARIES OF MUNICIPALITIES

10. In this Part, "district" means part of a township or parts of two or more townships which it is proposed to erect into a village or town or part of a township which it is proposed to add to another municipality, or the part so erected or added, as the case may be. R.S.O. 1937, c. 266, s. 10.

Interpretation.

11. Under and subject to the provisions and conditions hereinafter mentioned, a district may be erected into a village by the council of the county in which it is situate, or if the

Erection of village.

district comprises parts of two or more counties by the council of the county in which the larger or largest part of the district is situate. R.S.O. 1937, c. 266, s. 11.

Procedure
for erection
of village.

12.—(1) Where a petition, signed, if the district or part of it lies within one mile of the limits of a city having a population of not less than 100,000, by at least two-thirds and in other cases by at least one-half of the freeholders representing at least one-half of the assessed value of the lands in the district and resident tenants of the district whose names are entered on the last revised assessment roll of the municipality in which the district is situate, and in the case of tenants who have been resident in the district for at least four months next preceding the presentation of the petition, all of the petitioners being British subjects of the full age of 21 years, and at least one-half of them freeholders, praying for the erection of the district into a village, is presented to the council, the council, if the district has a population exceeding 750, shall within three months after the presentation of the petition pass a by-law erecting the district into a village, declaring the name which it shall bear and its boundaries.

Lot of petitioner to be designated.

(2) Opposite the name of every petitioner there shall be shown, by reference to the number of the lot, the land owned or occupied by him, and where it is or forms part of a lot laid down on a registered plan, the reference shall be to the number of the lot according to the plan, and the petition shall also show whether the petitioner is a freeholder or resident tenant.

Presentation
of petition.

(3) A petition shall be deemed to be presented when it is lodged with the clerk, and the sufficiency of the petition shall be determined by him and his certificate shall be conclusive in reference thereto.

Special
census.

(4) The number of the inhabitants of the district shall be ascertained by a special census taken by direction of the council.

Time for
passing
by-law.

(5) The by-law shall not be passed before the expiration of one month after the presentation of the petition, nor until further notice has been given of the meeting of the council at which it is intended to take it into consideration.

Publication
of notice.

(6) The notice shall be published at least once a week for two successive weeks during the two months next preceding the meeting and shall contain a description of the district sufficiently full to indicate the land which it is intended to embrace in the proposed village.

Expenses of
census, etc.

(7) The council may require that the expenses of taking the census and of publishing the notice be paid by the petitioners,

or that a sum sufficient to defray them be deposited with the clerk.

(8) The clerk shall forthwith, after it is passed, transmit a certified copy of the by-law to the Provincial Secretary, who shall cause notice of it to be published in *The Ontario Gazette*. By-law to be published in *Gazette*.

(9) After the expiration of three months from the publication of the notice of the by-law, and after the final disposition of any application to quash it made within that period, if the application is unsuccessful, the by-law shall not be liable to be quashed on any ground, and the village thereby erected shall be deemed to have been duly erected in accordance with this Act. R.S.O. 1937, c. 266, s. 12. Time for applying to quash by-law.

13.—(1) Subject to subsection 2, the area of a town or village hereafter erected shall not exceed 500 acres for the first 1,000 or less, with 200 acres or fraction thereof added for each additional 1,000 or fraction thereof in excess of 1,000 of its population. Area of town or village in a county.

(2) In unorganized territory, the area of a town shall not exceed 750 acres for the first 500 of its population, with 300 acres or fraction thereof added for each additional 500 of its population or fraction thereof. In unorganized territory.

(3) An addition shall not be made to any town or village which will have the effect of increasing its area beyond the prescribed area. No addition beyond prescribed area.

(4) Land occupied by highways, parks and public squares and land covered by water shall be excluded in determining the area. R.S.O. 1937, c. 266, s. 13. Lands not to be included.

14.—(1) Where a village comprises parts of two or more counties, it shall be annexed to and form part of that one of them which is agreed on by the councils, or which, failing an agreement within six months after the presentation of the petition, the Lieutenant-Governor in Council may by proclamation direct. R.S.O. 1937, c. 266, s. 14 (1); 1939, c. 30, s. 1. Annexation of village in two or more counties to one county.

(2) If an agreement is come to, the clerk of each of the councils shall forthwith notify the Provincial Secretary of it, and if an agreement is not come to within the period mentioned in subsection 1, shall forthwith, after the expiration of that period, notify the Provincial Secretary of the fact. Agreement between councils as to annexation of village.

(3) Where the councils agree as to the county to which the village shall be annexed, the Provincial Secretary shall forthwith, after notice of the agreement, cause to be published in *The Ontario Gazette* notice of the county to which the village has been annexed. R.S.O. 1937, c. 266, s. 14 (2, 3). If councils agree notice to be published.

Erection of
police village
into a vil-
lage.

15. A police village may be erected into a village in the manner and subject to the conditions mentioned in section 12. R.S.O. 1937, c. 266, s. 15.

Incorporation of towns
in unorgan-
ized terri-
tory.

16.—(1) Subject to subsection 2 of section 13, the Municipal Board may, upon the application of not less than 75 male inhabitants of the locality, each being a British subject of the full age of 21 years, incorporate as a town the inhabitants of a locality having a population of at least 1,500, and situate in one or more of the provisional judicial districts, whether or not it lies within an existing township municipality. R.S.O. 1937, c. 266, s. 18 (1); 1944, c. 39, s. 1; 1946, c. 60, s. 1.

Order of
Board.

(2) The order of the Board shall declare the name which the town shall bear, its boundaries, and the date when the incorporation shall take effect, and shall also provide for the apportionment, collection and payment over of the taxes for the current year. R.S.O. 1937, c. 266, s. 18 (2).

Erection
of cities
and towns.

17.—(1) The Municipal Board may erect a township having a population of not less than 25,000 or a town having a population of not less than 15,000 into a city, and a village having a population of not less than 2,000 into a town, and declare the name which it shall bear. R.S.O. 1937, c. 266, s. 19 (1); 1944, c. 39, s. 2.

Part of
township
may be
included.

(2) Where, from the proximity of streets or buildings or the probable future exigencies of the newly erected city or town, the Board deems it desirable that part of one or more adjacent townships should be included in it, the Board may, subject to subsection 6, detach such part from the township or townships and annex it to the newly erected city or town.

Division
into wards.

(3) The newly erected city or town shall be divided into wards bearing such numbers or names as the Board may direct.

Number of
wards.

(4) The number of wards in the town shall not be less than three, and each of the wards in the city or town shall have a population of not less than 500.

Notice of
application.

(5) Notice of the application for the erection of the town into a city or of a village into a town shall be published at least once a week for three months.

Part of
township
included to
be described.

(6) Where it is proposed that part of one or more adjacent townships shall be embraced in the newly erected city or town, the notice shall so state and shall designate the part proposed to be embraced therein.

Force of
order.

(7) The order shall be conclusive evidence that all conditions precedent to the making of it have been complied with,

and that the city or town has been duly erected in accordance with this Act. R.S.O. 1937, c. 266, s. 19 (2-7).

18.—(1) Upon the application of the council of any town or village or of such number of the owners of any lands therein wholly used for farming purposes as represents at least three-fifths of the amount of the assessed value of all the lands proposed to be detached from the town or village, the Municipal Board may, after hearing representatives of the town or village, and of the owners of such farm lands, and of the adjoining municipality to which it is proposed to annex the lands, make an order detaching such farming lands or any part thereof from the town or village and annexing the same to an adjoining municipality on such terms and conditions as to the adjustment of the assets and liabilities, and upon such other terms and conditions as may have been agreed upon between the municipalities interested, or in default of agreement as may be determined by the Board.

Authority of
Municipal
Board to
separate
farm lands
from towns
and villages.

(2) If the interest of the lands detached in the assets of the town or village from which they are detached exceeds its proportion of the liabilities thereof, that corporation shall pay to the corporation of the municipality to which the lands are annexed the amount of the excess, but if the lands' proportion of such liabilities exceeds its interest in such assets the corporation of the municipality to which the lands are annexed shall pay to the corporation of the town or village from which the lands are detached the amount of the excess, and the order of the Board shall set out the amount to be paid by one municipality to the other accordingly. R.S.O. 1937, c. 266, s. 21.

Adjustment
of assets
and liabilities
to be
determined
by the
Board.

19. Where territory constituting or forming part of a local municipality becomes part of a local municipality in another county, it shall thereafter form part of that county except for the purpose of representation in the Assembly. R.S.O. 1937, c. 266, s. 22.

Adding
territory to
municipality
in another
county.

20.—(1) Upon the application of any municipality authorized by by-law of the council thereof, or upon the application of the Minister of Municipal Affairs authorized by the Lieutenant-Governor in Council, or in respect of clause *d* upon the application of at least 25 male inhabitants, being British subjects of the full age of 21 years, the Municipal Board may by order on such terms as it may deem expedient,

Amalgama-
tions and
annexations.

- (a) amalgamate the municipality with any other municipality or municipalities;
- (b) annex the whole or any part or parts of the municipality to any other municipality or municipalities;

(c) annex the whole or any part or parts of any other municipality or municipalities to the municipality; or

(d) annex the whole or any part or parts of any unorganized township or townships to the municipality,

and any such order may amalgamate or annex a greater or smaller area or areas than the area or areas specified in the application, whether or not the municipality, municipalities, unorganized township or unorganized townships in which the area or areas is or are located is or are specified in the application. 1947, c. 69, s. 2 (1).

Assent of electors.

(2) The Municipal Board before proceeding with the application of the council of any municipality under subsection 1 may require that the by-law of the council shall receive the assent of the electors of the municipality who are entitled to vote on money by-laws. 1939, c. 30, s. 2, *part*; 1946, c. 60, s. 3 (1).

Public hearing to be held by Board.

(3) The Municipal Board before making any order under subsection 1 shall hold a public hearing after such notice thereof has been given as the Board may direct for the purpose of inquiring into the merits of the application and of hearing any objections which any person may desire to bring to the attention of the Board. 1939, c. 30, s. 2, *part*.

Effect of official plan.
Rev. Stat., c. 277.

(4) Where in a municipality affected by a proposed annexation or amalgamation an official plan approved under *The Planning Act* is in effect and a by-law of a municipality is passed to authorize an application for an order of the Municipal Board under this section, and a certified copy of the by-law has been sent to the Minister of Planning and Development and to the planning board or planning boards having jurisdiction in any municipality or area affected by the application, the by-law shall not be deemed to be or be held invalid on the ground that it conflicts with the official plan. 1949, c. 61, s. 1 (1), *part*.

City or town may be erected.

(5) If a municipality to which the whole or part of another municipality is annexed or a municipality created by an amalgamation under this section has the requisite population it may by such order be erected by the Municipal Board into a city or town bearing such name as the Board may direct.

Division into wards.

(6) The Municipal Board may order a division or re-division of a municipality into wards if, in the opinion of the Board, the annexation or amalgamation renders such division or redivision necessary or desirable.

By-law to be submitted on petition.

(7) If a petition signed by at least 150 electors of a town, village or township, or 500 electors of a city, praying that the

whole or any part of the city, town, village or township may be annexed to an adjacent municipality on such terms as may be stated in the petition, is presented to the council of the city, town, village or township, the council shall within four weeks after the presentation of the petition submit to the electors of the city, town, village or township for their assent thereto a by-law providing for such annexation on the terms mentioned in the petition, and if the by-law receives the assent of the electors the council shall forthwith make application for such annexation under subsection 1. 1939, c. 30, s. 2, *part.*

(8) In subsection 7, "electors" means electors who are entitled to vote on money by-laws. 1946, c. 60, s. 3 (2). Interpretation.

(9) The Municipal Board may by any order made pursuant to any application under this section or by subsequent order or orders, Further powers of Municipal Board.

- (a) make all such adjustments of assets and liabilities as between the municipalities, including counties, affected by any such order, as may be agreed upon or, in default of agreement, as the Municipal Board may deem equitable;
- (b) create, amalgamate or dissolve such local boards and make such adjustments of assets and liabilities of local boards as may be agreed upon or, in default of agreement, as the Municipal Board may deem equitable;
- (c) define special areas within the municipality as enlarged by such annexation or resulting from such amalgamation, having regard to the areas annexed thereto or amalgamated therein, and adjust the rights, claims, liabilities and obligations of the rate-payers of such areas and provide the extent to which the liabilities of such municipality shall be discharged by the imposition of rates upon the rateable property in such areas;
- (d) appoint a referee or referees who shall make inquiry and report to the Municipal Board upon the adjustments of assets and liabilities and of rights, claims, liabilities and obligations referred to in clauses *a*, *b* and *c*, the report to be filed with the Municipal Board within such time as the Municipal Board may from time to time allow, and the Municipal Board shall consider the report and may hear such representations in respect thereto as it may see fit and may adopt, vary or amend the report or refer the report back to such referee or referees for further

consideration, and the order of the Municipal Board adopting, varying or amending the report shall be final and conclusive and not open to question or appeal and shall be binding upon all municipalities and local boards affected thereby;

- (e) make all such provisions for the composition of councils and local boards, the fixing of days for nominations, either before or subsequent to the day on which the annexation or amalgamation becomes effective, the holding of elections, the fixing of days for first meetings of councils and local boards, the preparation of first voters' lists and assessment rolls, and for such other matters as it may deem necessary to provide for the effective administration of the enlarged or amalgamated municipality or of any local board thereof;

Rev. Stat.,
c. 322.

- (f) where the holder of an operating licence under *The Public Vehicles Act* is adversely affected by the annexation or amalgamation,

- (i) may authorize the municipality or municipalities to pay to the holder of the licence in respect of such adverse effect the amount of compensation agreed upon, or

- (ii) may direct what compensation, if any, shall be paid by the municipality or municipalities to the holder of the licence in respect of such adverse effect;

- (g) do or cause to be done all such other matters, acts, deeds and things as may be necessary or incidental to the carrying out of the amalgamation or annexation provided for in such order. 1939, c. 30, s. 2, *part*; 1950, c. 46, s. 1 (1).

Powers of,
referees,
Rev. Stat.,
c. 262.

- (10) Any referee or referees appointed under subsection 9 shall have all the powers mentioned in section 55 of *The Ontario Municipal Board Act*.

Municipal
Board may
make rules,
etc.

- (11) The Municipal Board may make such rules and regulations and issue such orders and directions in respect of any matter not specifically provided for in this section as it may deem necessary or desirable in connection with any such annexation or amalgamation and every such rule, regulation, order and direction shall be valid and binding upon all municipalities and local boards interested in or affected thereby.

No order if
municipality
in default.

- (12) No order of annexation or amalgamation of any municipality or any part thereof shall be made under this section

at a time when the municipality is in default in payment of any interest or principal in respect of its debentures.

(13) The powers conferred upon the Municipal Board by this section may be exercised at any time or times notwithstanding anything in this or any other special or general Act, and in the event of any conflict between the provisions of this section and the provisions of this or any other special or general Act the provisions of this section shall prevail. Provisions of this section to prevail.

(14) In this section, "local board" means a local board as defined by *The Department of Municipal Affairs Act, 1939*, c. 30, s. 2, *part*. Interpretation. Rev. Stat., c. 96.

(15) An amalgamation or annexation order shall not come into force until 28 days after it is made and if during that period objection thereto is filed with the Municipal Board, the order shall not come into force, Amalgamation, annexation orders, when to come into force.

(a) until the objection is withdrawn, in which case the Municipal Board may name the day upon which the order came or will come into force; or

(b) until it is confirmed by special Act, in which case the Act shall name the day upon which it came or will come into force. 1947, c. 69, s. 2 (3); 1950, c. 46, s. 1 (2).

(16) For the purposes of subsection 15 the objection mentioned therein means an objection in writing which according to the certificate of the clerk of the municipality is signed by not less than 10 per cent of the persons qualified to vote on money by-laws who are resident in, Sufficiency of objection.

(a) the municipality which has applied for the order; or

(b) any municipality or the part or parts thereof which by the terms of the order is or are to be amalgamated with or annexed to the applicant municipality,

and an objection shall be deemed to have been withdrawn when there is filed with the Municipal Board a notice or notices in writing of such withdrawal signed by one-third or more of the objectors. 1949, c. 61, s. 1 (1), *part*.

21.—(1) Upon the application of a municipality to enlarge, reduce or dissolve any fire, police, sewage, water or transportation area or local improvement area or street lighting area created under this or any other Act or any other area created for any municipal purpose, or to amalgamate any such area with any other area of a similar nature in the municipality, the Municipal Board may, on such terms as it deems Alteration of areas.

expedient, by order make such enlargement, reduction, dissolution or amalgamation.

Application
of s. 20.

(2) The provisions of section 20, except subsections 15 and 16, shall apply *mutatis mutandis* in the case of an application under subsection 1. 1946, c. 60, s. 4, *amended*.

Power to
create inter-
urban ad-
ministrative
areas.

22.—(1) Upon the application of a municipality as defined in *The Department of Municipal Affairs Act* for the creation of an area consisting of the applicant municipality or a part thereof and one or more other municipalities or parts thereof for the joint administration therein of education, fire and police protection, planning, highways, sewers, sewage disposal, garbage disposal, public health including hospitals and hospitalization, welfare including unemployment relief, parks or any public utility as defined by *The Department of Municipal Affairs Act*, the Municipal Board may by order on such terms as it deems expedient create such area or a greater or smaller area for any or all of such purposes.

Rev. Stat.,
c. 96.

Vote of
electors.

(2) Before proceeding with the application the Municipal Board may require the matter to be voted upon by the electors entitled to vote on money by-laws in the area or any part thereof.

Public
hearing to
be held.

(3) Before making an order under subsection 1 the Municipal Board shall hold a public hearing, after such notice thereof has been given as the Board may direct, for the purpose of inquiring into the merits of the application and of hearing the objections that any person may desire to bring to the attention of the Board.

Petition.

(4) If a petition signed by at least 150 electors entitled to vote on money by-laws of any municipality other than a city or 500 such electors of a city praying that an application under subsection 1 be made is presented to the council, the council shall within six weeks after the presentation of the petition or, subject to the approval of the Municipal Board, at the next election submit to the electors entitled to vote on money by-laws for their assent thereto a by-law or question setting out the nature of the application prayed for, and if such by-law or question receives the assent of such electors the council shall forthwith make such application to the Municipal Board.

Minister of
Municipal
Affairs may
apply.

(5) The Lieutenant-Governor in Council may authorize the Minister of Municipal Affairs to make an application under subsection 1 and in such case the Municipal Board shall have the same powers as if the application had been made by a municipality under subsection 1.

Powers of
Municipal
Board.

(6) The Municipal Board may by order made pursuant to an application under this section or by subsequent order or orders,

- (a) make all such adjustments of assets and liabilities as between the municipalities affected by any such order, as may be agreed upon or, in default of agreement, as the Municipal Board may deem equitable;
 - (b) create, amalgamate or dissolve such local boards and make such adjustments of assets and liabilities of local boards as may be agreed upon or, in default of agreement, as the Municipal Board may deem equitable;
 - (c) define special areas within the area created under this section and adjust the rights, claims, liabilities and obligations of the ratepayers of the special areas and provide the extent to which liabilities shall be discharged by the imposition of rates upon the rateable property in the special areas;
 - (d) appoint one or more referees who shall have all the powers mentioned in section 55 of *The Ontario Municipal Board Act* to inquire into and report to the Board upon the adjustment of the matters referred to in clauses *a*, *b* and *c* or any of them, the report to be filed with the Board within such time as the Board may from time to time allow and the Board shall consider the report and may hear such representations with respect thereto as it may see fit and may adopt, vary or amend the report or refer the report back to the referee or referees for further consideration; Rev. Stat., c. 262.
 - (e) fix the remuneration and expenses of the referee or referees and declare in what proportion the remuneration and expenses shall be paid by the municipalities;
 - (f) do or cause to be done all such other matters, acts, deeds and things as may be necessary or incidental to the carrying out of the order.
- (7) The Municipal Board shall order a division or re-Wards. division of the area into not less than three wards having regard to population and size, provided that no ward shall extend beyond the boundaries of the municipality in which it is situate unless it is agreed to the contrary by the municipalities in the area.
- (8) The clerk of the municipality having the largest assessment shall act as secretary and returning officer of the area Acting secretary. until a secretary-treasurer is appointed by the Board of Management.
- (9) There shall be a board of management to be known as Board of management, composition of. the Board of Management of the Inter-Urban Area of

.....which shall be a body corporate composed of one member for each ward in the area, to be elected as hereinafter provided.

Who may vote.

(10) Every person whose name is on the voters' list for the municipality or the part thereof within the ward as entitled to vote at municipal elections shall be entitled to vote at the election of the member of the Board of Management to be elected for such ward.

Time and place of elections.

(11) The first election of the Board of Management and any local board shall be held at the time and in the manner directed by the Municipal Board, and each election thereafter shall be held at the same time and place as the municipal elections of the municipality in which the ward is situate.

Election to be as municipal election.

(12) Except as provided in this section the members of the Board of Management and any local board shall be elected by ballot and the election shall be conducted by the same officials and in the same manner as the elections of aldermen and councillors, and the provisions of this Act respecting the time and manner of holding elections including the resignation of persons nominated, vacancies and declarations of qualification for office, and decision in the case of a tie vote, shall apply *mutatis mutandis* to such election.

Two-year term.

(13) Each member so elected shall hold office for two years and until his successor is elected.

Secretary-treasurer.

(14) The Board of Management shall appoint a secretary-treasurer for the area and Board of Management, who shall hold office during pleasure and who, subject to the by-laws of the Board of Management, shall with respect to the area and the administration of its affairs and of its inhabitants have and may exercise all the authority, powers and rights and shall perform all the duties and obligations which by statute or by-law are or may be conferred or imposed upon the clerk and treasurer of a municipality with the status as is designated by the Municipal Board in respect of the purposes for which the area is created.

Auditors.

(15) The auditors of the municipality having the largest assessment within the area shall be the auditors of the area and the local boards thereof.

Returning officer.

(16) The secretary-treasurer shall be the returning officer of the area and in the event of two or more candidates in any ward having an equal number of votes, he shall give a vote for one of such candidates so as to decide the election.

Eligibility of candidates.

(17) No person shall be eligible for election as a member of the Board of Management or any local board unless he is a

resident of the ward for which he is nominated and qualified to vote at municipal elections therein.

(18) Nominations for the first election of the members of the Board of Management or for any local board for any ward shall be held at the time and in the manner directed by the Municipal Board and each year thereafter the nominations shall be held at the same time and place as the nominations of municipal candidates for the municipality in which the ward is situate. Nominations.

(19) A separate set of ballot papers shall be prepared by the clerk of the municipality for each of the wards or polling subdivisions containing the names of the candidates for the Board of Management and any local board in the same form as those used for councillors and aldermen. Ballot papers.

(20) At the close of the poll in each municipality the returning officer thereof shall transmit to the returning officer of the area a sealed return showing the number of ballots cast for each of the candidates for election to the Board of Management and any local board and not later than four o'clock in the afternoon of the third day following the last of such elections the returning officer of the area shall make up from the returns so received by him, the total number of votes cast for each candidate and publicly declare the result of the election, and he shall thereupon declare in writing over his signature the name of each person so elected and shall send by pre-paid mail a copy of such certificate to each candidate. Duties of returning officer at close of poll.

(21) Where the office of a member of the Board of Management becomes vacant from any cause, the remaining members shall at the first meeting after the vacancy occurs appoint a qualified person resident in the ward from which the member so vacating his seat was elected, to fill the vacancy for the remaining part of the term for which his predecessor was elected. Vacancies.

(22) The first meeting of the Board of Management shall be held at the time and place fixed by the order of the Municipal Board and each year thereafter the first meeting of the Board shall be held not later than the second Monday in January and the day and the hour for holding the meeting shall be fixed by by-law. Meetings.

(23) The secretary-treasurer shall preside at the election of the chairman or if there is no secretary-treasurer or in his absence the members present shall choose one of themselves to preside at such election and the member so chosen may vote as a member. Election of chairman.

(24) In case of an equality of votes at the election of the chairman the member who is assessed for the largest sum on Idem.

the last revised assessment roll shall have a second or casting vote.

Powers and
duties of
chairman.

(25) The chairman of the Board of Management shall be deemed to be and shall have all the rights, powers, privileges, duties and authority of the head of a council and municipality and a mayor or reeve of a city, town, village or township and the chairman of a local board as designated by the Municipal Board.

Vice-
chairman.

(26) The Board of Management shall appoint a vice-chairman who shall, during the absence of the chairman or if the office is vacant, have all the rights, powers, privileges, duties and authority of the chairman.

Quorum.

(27) A majority of the members constituting the Board shall be a quorum.

Status of
area.

(28) The area shall be a local municipality for the purposes for which the area was created with the status of a city, town, village or township as is designated by the Municipal Board.

Status of
Board of
Manage-
ment.

(29) The Board of Management shall be a municipal council for the administration and management of the purposes for which the area was created and shall be a local board as defined in *The Department of Municipal Affairs Act* for such purposes as are designated by the Municipal Board, except school boards, library boards, boards of commissioners of police, planning boards, boards of health and health units.

Rev. Stat.,
c. 96.

Board of
Management
supreme.

(30) The powers vested in the Board of Management under this section shall not be exercised by the councils of the local municipalities in the area or by the council of the county, if any, in which the area is situate and the county levy, if any, shall not include a levy upon the rateable property in the area for any of the purposes for which the area was created.

School
boards.

(31) Every board created or amalgamated for school purposes in the area shall have the status of a public school board, continuation school board, separate school board, board of education, high school board or collegiate institute board, or board of trustees of a township school area as is designated by the Municipal Board, and every such board shall be a corporation by the name of The Public School Board, or The Continuation School Board, or The Separate School Board, or The Board of Education, or The High School Board, or The Collegiate Institute Board, or The Board of Public School Trustees of The Inter-Urban Area of, as the case may be, or such other designation as the Municipal Board by order or school board by by-law may provide, and the provisions of the respective school Acts governing such boards shall apply *mutatis mutandis*

to such boards, except that each board shall be composed of one member for each ward elected for a term of two years at the time and in the manner herein provided by persons entitled to vote as public school supporters or separate school supporters, as the case may be, and the composition of the high school board or the collegiate institute board or the board of education shall also include the member or members to be appointed by the county or separate school board pursuant to *The High Schools Act* or *The Boards of Education Act*, as the case may be.

Rev. Stat.,
cc. 165, 38.

(32) Notwithstanding subsection 31, the Municipal Board may provide that a high school board or a collegiate institute board created under this section shall be composed of one or more members representing each local municipality in the area to be appointed by the council of each such municipality at the first meeting in each year and the members so appointed shall, with such additional members as are authorized by *The High Schools Act* form such high school board or collegiate institute board, as the case may be.

Exception.

(33) When the assessment roll has been finally revised and corrected, the clerk of each municipality within the area shall within 90 days transmit to the secretary-treasurer of the area a summarized statement of the contents of the roll showing the population and the total assessment of each of the various classes of property liable to assessment and the total business assessment and the total assessment for public school, separate school and general purposes, and when required to do so by the area assessors, Board of Management, county judge or court, as the case may be, for the purpose of equalization or otherwise produce the original assessment roll of the municipality.

Roll to be
transmitted
and
produced.

(34) The Board of Management shall equalize the real property assessments of the municipalities within the area for public school, separate school, continuation school, board of education, high and collegiate school purposes as the case may be and for such other purposes as are designated by the Municipal Board in a similar manner as is done in the case of an equalization for county purposes and similar procedures and rights shall apply thereto as in the case of a county equalization and for such purposes every municipality or public or separate school board thereof in the area shall be considered a municipality within a county, and for such purposes the Board of Management may with the approval of the Department appoint assessors who shall have the same powers and duties as county assessors.

Equaliza-
tion of as-
sessment.

(35) The assessment of real property as equalized and business assessments in each municipality for the preceding

Basis for
raising
required
sums.

year shall be the basis upon which any rate or sums required to be raised for each of the purposes of the area shall be apportioned.

Rates.

(36) The Board of Management shall prepare and adopt estimates for all sums required during the year for the purposes of the area including the rates imposed by any separate school board and the sums required to be provided by the Board of Management for any board, commission or other body, and such estimates shall set forth the estimated revenue and expenditures in such form as the Department may prescribe and the Board of Management shall apportion the amounts required to be raised for each purpose among the municipalities within the area and the secretary-treasurer shall forthwith after such apportionment has been made certify to the clerk of each local municipality in the area the amount or rate to be levied thereon for each purpose for the current year and the sum shall be collected and levied upon the whole rateable property within such municipality according to the last revised assessment roll, except that the amounts or rates to be levied for public school or separate school purposes shall be collected and levied upon the whole rateable property of public school supporters or separate school supporters as the case may be, and the total of such amounts shall be collected and paid over to the Board of Management at the time and in the manner required by the Board.

Estimates.

(37) The Board of Management may by by-law require that the estimates for the current year for every board, commission or other body created for any of the purposes of the area and for which the Board of Management is by law required to raise or provide money, shall be submitted to the Board of Management on or before the 1st day of March in each year and that such estimates shall be in the form and give the particulars which the by-law prescribes.

Rates to be levied on full values.

(38) The Board of Management in apportioning any rate or sums for any of the purposes of subsection 1 of section 309 shall add to the amount of the equalized assessment of each local municipality within the area any amounts exempted therefrom by reason of a fixed assessment or a partial or total exemption from assessment, except as provided in section 4 of *The Assessment Act*.

Rev. Stat., c. 24.

Borrowing powers.

(39) In raising money for any of the purposes of the Board of Management by way of debentures, the assent of the electors shall not be required, and for current borrowing, the provisions of section 341 shall apply *mutatis mutandis*.

Power to make additional orders, etc.

(40) The Municipal Board may make such orders in respect of any matter not specifically provided for in this section as it

may deem expedient in connection with the area and every such order shall be valid and binding upon all municipalities and local boards affected thereby.

(41) The powers conferred upon the Municipal Board by this section may be exercised at any time notwithstanding anything contained in this or any other special or general Act, and in the event of conflict between the provisions of this section and the provisions of this or any other special or general Act the provisions of this section shall prevail save that nothing herein shall affect or limit the powers of a board of separate school trustees with respect to the imposing, levying and collecting of school rates, the borrowing of money for school purposes and the making of instruments for the security of payment thereof. Conflict.

(42) Any area created in unorganized territory shall be subject to Part III of *The Department of Municipal Affairs Act*. 1946, c. 60, s. 5. Unorganized territory. Rev. Stat., c. 96.

TOWNSHIPS

23.—(1) The Municipal Board may, upon application of not less than 75 male inhabitants of the locality, each being a British subject of the full age of 21 years, incorporate as a township or union of townships the inhabitants of a locality situate in unorganized territory and having a population of at least 1,000. 1944, c. 39, s. 3, *part*; 1946, c. 60, s. 6. Formation of townships in unorganized territory.

(2) The order or orders of the Board shall declare the name which the township shall bear, its boundaries and the date when the incorporation shall take effect, and shall make provision for the election of the members of the first council and such other matters as may be necessary to complete the incorporation and for the carrying on of the locality as a township municipality. 1944, c. 39, s. 3, *part*. Order of Board.

UNION OF TOWNSHIPS

24. A union of townships shall consist of two or more townships united for municipal purposes and having in common, as if one township, all offices and institutions established by law pertaining to township municipalities. R.S.O. 1937, c. 266, s. 25. Union of townships.

25. The Lieutenant-Governor in Council may, by proclamation, annex a township, or two or more townships lying adjacent to one another laid out by the Crown in unorganized territory, to any adjacent county, and may erect the same with another township of such county into a union of townships. R.S.O. 1937, c. 266, s. 26. Annexation of new townships in unorganized territory to a county.

Union of junior township, after separation, with adjoining township.

26. If two-thirds of the resident freeholders and tenants of a junior township whose names are entered on the last revised assessment roll petition the council of the county to be separated from the union to which it belongs, and to be attached to another adjoining township in the county, and the council considers that the interest and convenience of the inhabitants of the township would be promoted thereby, such council may separate it from the union, and may erect it with such adjoining township into a union of townships. R.S.O. 1937, c. 266, s. 28.

Seniority of united townships, how determined.

27. The order of seniority of townships forming a union of townships shall be determined by the number of freeholders and tenants thereof whose names are entered on the last revised assessment roll, and the township having the largest number of them shall be the senior township, and the other or others the junior township or townships, and where there is no such assessment roll for all or any one or more of the townships their seniority shall be determined by the functionary or body by which the union is formed. R.S.O. 1937, c. 266, s. 29.

SEPARATION OF JUNIOR TOWNSHIP FROM UNION

Junior township may be separated from union.

28.—(1) When a junior township of a union of townships has 100 resident freeholders and tenants whose names are entered on the last revised assessment roll, the county council, if the union is not in unorganized territory, may separate the township from the union.

Where territory unorganized.

(2) If the junior township is in unorganized territory and has a population of not less than 100, the Municipal Board, upon the application of not less than 15 of the assessed freeholders and tenants therein, may separate the township from the union.

Separation of junior township containing 50 freeholders, etc.

(3) If a junior township has 50, but less than 100 resident freeholders and tenants whose names are entered on the last revised assessment roll, and two-thirds of such resident freeholders and tenants petition the council of the county to separate the township from the union and the council considers the township to be so situated, with reference to natural obstructions, that its inhabitants cannot conveniently remain united with the inhabitants of the other township or townships, the council may separate it from the union.

Names of townships after separation.

(4) Where a union of townships consisting of more than two townships is dissolved by the withdrawal of a junior township, the remaining townships shall constitute the union which shall be continued under its former name, omitting that of the junior township.

(5) Where a union of townships consisting of two townships only is dissolved, the inhabitants of each of the townships shall become a separate corporation bearing the name of the township. R.S.O. 1937, c. 266, s. 30.

Where union of two is dissolved.

DATE WHEN NEW INCORPORATION TO TAKE EFFECT

29.—(1) Where a new corporation is constituted under this Act, the incorporation shall take effect on the 31st day of December next after the proclamation, order of the Municipal Board, or by-law by which it is effected, or on such other day as the functionary or body by which the incorporation is effected may fix, and the functionary or body by which the new corporation is constituted may, and where necessary shall, fix the dates and the place or places for holding the first nomination meeting and election, appoint a returning officer and otherwise provide for the holding of the election according to law.

Date when new incorporation to take effect.

(2) The returning officer shall perform all the duties in connection with the election which in other cases are to be performed by the clerk of a local municipality, and shall act as clerk of the new municipality until a clerk is appointed and has taken the oath of office. R.S.O. 1937, c. 266, s. 31.

Duties of returning officer.

[As to registration of by-laws, etc., erecting a village, town or city, or enlarging, diminishing or altering the boundaries of a municipality, see The Registry Act, Rev. Stat., c. 336.]

MATTERS CONSEQUENT UPON THE FORMATION OF NEW CORPORATIONS

30. The erection of a district into a village or town, of a village into a town, or of a town into a city, or the separation of a township from a union of townships shall not affect the by-laws then in force in the district or municipality but the same shall remain in force until repealed by the council of the newly erected municipality, but nothing herein shall authorize the amendment or repeal of a by-law which the council by which it was passed could not lawfully amend or repeal. R.S.O. 1937, c. 266, s. 32.

By-laws of old corporation to remain in force until repealed.

31. Where a district or a municipality is annexed to a municipality, its by-laws shall extend to such district or annexed municipality, and the by-laws in force therein shall cease to apply to it, except those relating to highways, which shall remain in force until repealed by the council of the municipality to which the district or municipality is annexed, and except by-laws conferring rights, privileges, franchises, immunities or exemptions which could not have been lawfully

What by-laws to be in force in territory annexed to a municipality.

repealed by the council which passed them. R.S.O. 1937, c. 266, s. 33.

ASSETS, DEBTS AND LIABILITIES

Liability
for debts
of union.

32. Where a junior township is separated from a union of townships the senior or remaining township or townships shall be liable to the creditors of the union for all the debts and obligations of the union. R.S.O. 1937, c. 266, s. 34.

Taxes for
current year
to belong
to senior or
remaining
townships.

33. Where a junior township is separated from a union of townships all taxes imposed by the council of the union for the year in which the separation takes place shall be collected and paid over to the senior or remaining township or townships. R.S.O. 1937, c. 266, s. 35.

Disposition
of property
upon disso-
lution of
union;

34. After a junior township is separated from a union of townships the property of the union shall be disposed of as follows:

real
property;

(a) the real estate situate in the junior township shall become the property of that township;

idem;

(b) the real estate situate in the remaining township or townships shall be the property of the remaining township or townships;

other assets;

(c) the two corporations shall be jointly interested in the other assets of the union, and the same shall be retained by the one, or shall be divided between them, or shall be otherwise disposed of, as they may agree;

arrangement
as to
property
and debts;

(d) the one shall pay or allow the other, in respect of the disposition of the real and personal estate of the union, and in respect of its debts, such sum as may be just;

how to be
determined
in case of
disagree-
ment;

(e) if the councils of the two corporations do not, within three months after the first meeting of the council of the junior township, agree as to the disposition of the personal estate, or as to the sum to be paid by the one to the other, or as to the time of payment thereof, the matters in dispute shall be determined by arbitration;

amount
settled to
bear interest.

(f) the amount so agreed upon or determined shall bear interest from the day on which the union was dissolved, and the same shall be provided for by the corporation which is to pay it, as in the case of other debts. R.S.O. 1937, c. 266, s. 36.

35. Where one local municipality is annexed to another the corporation of the latter shall become and be liable to the creditors of the corporation of the former for its debts and obligations and all the property and assets of the corporation of the annexed municipality shall be vested in the corporation of the municipality to which it is annexed, and that corporation shall have the same rights and powers as respects the collection and recovery of all unpaid taxes imposed by the council of the annexed municipality including those for the year in which the annexation takes effect, as if such taxes had been imposed by the council of the municipality to which it is annexed. R.S.O. 1937, c. 266, s. 37.

Liability to creditors and right to collect taxes where one municipality annexed to another.

36.—(1) Where a district is erected into a village or town, or is detached from one and annexed to another local municipality, there shall be an adjustment of assets and liabilities between the corporation of the municipality from which the district becomes or is detached and the corporation of the village or town or of the municipality to which the district is annexed, as the case may be, and if the interest of the district in the assets of the corporation of the municipality from which it becomes or is detached exceeds its proportion of the liabilities thereof, that corporation shall pay to the corporation of the village or town or of the municipality to which the district is annexed, as the case may be, the amount of excess; but if the district's proportion of such liabilities exceeds its interest in such assets the corporation of the village or town or of the municipality to which the district is annexed, as the case may be, shall pay to the corporation of the municipality from which the district becomes or is detached the amount of the excess.

Adjustment of assets and liabilities where village erected or district annexed to a municipality.

(2) If the corporations do not, within three months after the separation takes effect, agree as to such adjustment, the matter shall be determined by arbitration.

Arbitration.

(3) Where a district is detached as well from a county as from the local municipality, of which it forms part, there shall be a similar adjustment of the assets and liabilities of the corporation of the county from which the district is detached between that corporation and the corporation of the county to which the district is annexed, and the provisions of subsections 1 and 2 shall apply *mutatis mutandis*.

Where district becomes part of another county.

(4) If the corporation of the county, or of the local municipality, does not within three months after the separation takes effect, notify the corporation of the other county or local municipality that it requires an adjustment of the assets and liabilities, its right to claim an adjustment shall be barred.

When right to adjustment barred.

(5) Where a town not being a separated town is erected into a city, or a town or village is annexed to a city or separated town.

Case of town erected into city or town or village annexed to city or separated town.

town, there shall be a similar adjustment of the assets and liabilities of the corporation of the county from which the town or village is withdrawn between that corporation and the corporation of the city or separated town.

No allowance
to city for
interest
in court
house or
jail.

(6) Where a town is erected into a city the city shall not be entitled, in the adjustment of assets and liabilities, to any allowance in respect of its interest in the court house or jail of the county. R.S.O. 1937, c. 266, s. 38.

Ownership
of real estate
in district
erected into
village or
annexed
to a muni-
cipality.

37. Where a district is erected into a village or town or is detached from one local municipality and annexed to another, the real estate belonging to the corporation from which the district becomes or is detached and situate therein, shall belong to and be vested in the corporation of the village or town or of the municipality to which the district is annexed, as the case may be, but this shall not apply to a town hall and the land on which it is erected or which is used or enjoyed in connection with it, but the same shall remain the property of the corporation of the municipality from which the district becomes or is detached. R.S.O. 1937, c. 266, s. 39.

Collection
of taxes.

38.—(1) Except where otherwise provided, the taxes imposed by the council of the municipality from which the district becomes or is detached for the year in which it is detached shall belong to the corporation of that municipality and may be collected and recovered by it as if the district had not been detached but still remained part of the municipality.

Priority
of lien for
taxes levied
before de-
tachment
of lands.

(2) Taxes collectable under subsection 1 shall be a prior lien upon the land upon which they were levied in priority to any taxes subsequently levied thereon, and such prior lien shall not be lost or destroyed by reason of the lands being sold for taxes subsequently levied or by reason of the lands under the authority of any Act being vested in the municipality of which the district is formed or to which it is attached because of the non-payment of taxes subsequently levied. R.S.O. 1937, c. 266, s. 40.

Power to
proceed with
local im-
provements
upon lands
annexed
to another
municipality.
Rev. Stat.,
cc. 246, 215.

39.—(1) Where a work or service coming within the provisions of *The Municipal Drainage Act* or of *The Local Improvement Act* has been undertaken by a corporation, and after it has become liable for the carrying out of the same, any land liable to be specially assessed becomes a new municipality or is annexed to another municipality, the corporation of the municipality from which such land becomes or is detached may complete such work or service, and may enter upon and acquire any land lying within such new or other municipality necessary for the completion of such work or service, and may take all such proceedings, pass all such by-laws, make all such special

and other assessments, impose all such special and other rates, issue and sell all such debentures, borrow all such money and do all such other acts and things as are necessary to complete such work or service and to provide for the cost thereof in the same manner as if the land so liable had not become a new municipality or been annexed to another municipality.

(2) The corporation by which the work or service was undertaken shall be indemnified by the corporation of the municipality which is constituted from such land or to which such land is annexed against all debts and liabilities incurred by it before the formation of the new corporation or the annexation of such land for or in respect of any such work or service to the extent to which the land lying within such new or other municipality was specially assessed and in adjusting the assets and liabilities consequent on the detachment of such land the debts incurred by the corporation of the municipality from which it was detached, for its share of the cost of such work or service, shall be taken into account.

(3) Where the land specially assessed lies wholly within such new or other municipality, the corporation thereof shall be liable for the entire debt in respect of the work or service, and the clerk of the municipality from which the land was detached shall furnish the clerk of such new or other municipality with certified copies of all the by-laws relating to the work or service and the rates imposed by such by-laws shall be collected by the corporation of the new or other municipality, and that corporation shall pay the principal and interest of the debentures issued in respect of the work or service as they become due and shall indemnify the corporation of the municipality from which the land was detached against the same.

(4) Where part only of the land specially assessed lies within the new or other municipality the clerk of the municipality from which it was detached shall furnish the clerk of such new or other municipality with a certified copy of the by-law imposing the special assessment, and the corporation of the new or other municipality, in each year in which a special rate upon such lands is payable, shall collect the same and shall pay over the sums collected to the treasurer of the municipality from which such land was detached, when and as the same are collected, and in the adjustment of the assets and liabilities consequent upon the detachment of such land the debts incurred by the corporation of the municipality from which it was detached for its share of the cost of such work or service shall be taken into account. R.S.O. 1937, c. 266, s. 41.

40. Where a district is erected into a village, or a village into a town, or a town into a city, or a township is separated

Municipality to which territory annexed to indemnify municipality undertaking work.

Assumption of debt where all of land specially assessed is detached.

Collection of special rates, etc., where part only of land specially assessed is detached.

Jurisdiction of old council on formation of new corporation.

from a union of townships, the council having authority in the district or municipality at the time of the erection or separation shall, until the council of the new corporation is organized, continue to have the same powers as before such erection or separation. R.S.O. 1937, c. 266, s. 42.

OFFICIALS AND SURETIES

Effect of
separation
upon public
officers
and their
sureties.

41.—(1) The separation of a junior township from a union of townships shall not affect the office, duty, power or responsibility of any officer of the union who continues to be an officer of the remaining township or townships after the separation, or of the sureties of such officer or their liability, further than by limiting such office, duty, power, responsibility, suretyship and liability to the remaining township or townships.

Further
provisions
as to officers.

(2) Every such officer shall, after the separation, be the officer of the remaining township or townships as if he had been originally appointed an officer thereof.

Liability
of sureties
for public
officers.

(3) The sureties for such officer shall remain liable, as if they had become his sureties in respect only of the remaining township or townships, and all securities shall, after the separation, be read as if they had been given only to or for the benefit of the remaining township or townships. R.S.O. 1937, c. 266, s. 43.

NEW DIVISION INTO WARDS

Division
into wards.

42. Where the council of a local municipality before the 15th day of July in any year by a vote of two-thirds of all the members passes a resolution affirming the expediency of a division or a redivision of the municipality into wards, the Municipal Board may, notwithstanding any other general or special Act, divide or redivide the municipality into not less than three wards, each ward having a population of not less than 500. 1946, c. 60, s. 7.

IMPROVEMENT DISTRICTS

In-
corporation.

43.—(1) The Municipal Board may, upon the application of the Department or not less than 30 male inhabitants of the locality each being a British subject of the full age of 21 years, incorporate as an improvement district the inhabitants of any locality having a population of not less than 50.

Name,
boundaries,
etc.

(2) The Municipal Board shall declare the name the improvement district shall bear in the style of "The Corporation of the Improvement District of", and shall fix

its boundaries and the date when the incorporation is to take effect and may provide for such other matters as may be necessary or expedient in connection with the incorporation and for the carrying on of the locality as an improvement district. 1947, c. 69, s. 3 (1), *part*.

44. Every improvement district shall be subject to Part III of *The Department of Municipal Affairs Act*. 1947, c. 69, s. 3 (1), *part*. Rev. Stat., c. 96, Part III, to apply.

45.—(1) Every improvement district shall be deemed to be for all purposes of every Act a township municipality, a village municipality or a town municipality as may be designated from time to time by the Municipal Board, except that its powers instead of being exercised by a council shall be exercised by a board of three trustees appointed and designated as chairman, vice-chairman and member by the Lieutenant-Governor in Council. 1947, c. 69, s. 3 (1), *part*. Nature and status.

(2) Where, in an improvement district, a high school district is established and a separate school is maintained, one of the trustees appointed under subsection 1 shall be a separate school supporter. 1948, c. 59, s. 1 (1). Special provision re trustees.

(3) Two members of the board shall be a quorum. Quorum.

(4) If a vacancy occurs on the board through death, resignation or otherwise, the vacancy may be filled and the members redesignated by the Lieutenant-Governor in Council. 1947, c. 69, s. 3 (1), *part*. Vacancies.

(5) The board, with respect to the improvement district, shall function as every local board, except a separate school board, within the meaning of *The Department of Municipal Affairs Act*. 1948, c. 59, s. 1 (2). Board deemed to be local boards.

(6) The chairman of the board, with respect to the improvement district, shall have the powers and perform the duties of a mayor or reeve and the chairman of every local board for which the board functions, and when the locality erected into the improvement district forms part of a county for municipal purposes, he shall be a member of the county council. Chairman.

(7) The vice-chairman of the board, during the absence of the chairman through illness or otherwise or if the office of chairman is vacant, shall have all the powers and perform the duties of the chairman. Vice-chairman.

(8) The board shall appoint a secretary-treasurer who may be a member of the board, who shall hold office during pleasure and, with respect to the improvement district, shall have the powers and perform the duties of the clerk, treasurer, assessor Secretary-treasurer.

and collector of a municipality, and the secretary and treasurer of every local board for which the board functions. 1947, c. 69, s. 3 (1), *part*.

Election of trustees.

46.—(1) When an improvement district has been in existence for more than three years, the board of trustees may by by-law, passed with the assent of the resident rate-payers, provide for the election of the members of the board, in which case the provisions of this Act with respect to elections shall apply *mutatis mutandis*.

Chairman and vice-chairman.

(2) At the first meeting of the board after each election, the trustees shall elect one of themselves as chairman and another as vice-chairman. 1947, c. 69, s. 3 (1), *part*.

DISSOLUTION OF CORPORATIONS

Dissolution of municipalities or parts thereof.

47.—(1) Upon the application,

- (a) of a municipality to have the municipality dissolved; or
- (b) of a municipality in unorganized territory to have a part or parts of the municipality dissolved,

the Municipal Board may by order on such terms as it may deem expedient,

- (c) dissolve the municipality; or
- (d) detach from the municipality and dissolve such part or parts or any larger or smaller part or parts,

as the case may be, and the order shall take effect on the day named therein.

Where application in respect of part only.

(2) In the case of an application under clause *b* of subsection 1, for the purposes of the other provisions of this section "municipality" means the part or parts of the municipality in respect of which the application is made or the order is made, as the case may require. 1950, c. 46, s. 2 (1).

Assent of electors.

(3) The Municipal Board before proceeding with an application under subsection 1 may require the assent of the electors of the municipality.

Public hearing to be held by Board.

(4) The Municipal Board before making any order under subsection 1 shall hold a public hearing, after such notice thereof has been given as the Municipal Board may direct which shall in every case include a written notice to the Minister of Health, for the purpose of inquiring into the merits of the application and of hearing any objections which any person may desire to bring to the attention of the Municipal Board.

(5) The Lieutenant-Governor in Council may authorize the Minister of Municipal Affairs to apply to the Municipal Board to have a municipality dissolved and in such case the Minister of Municipal Affairs may apply. The Municipal Board shall have the same powers as if such application had been made by a municipality under subsection 1. 1943, c. 16, s. 2, *part.*

(6) The Municipal Board may by any order made under subsection 1 or by subsequent order or orders, Further powers of Municipal Board.

- (a) declare that the lands comprising the municipality dissolved shall be an improvement district or shall be annexed to and form part of a municipality or territory without municipal organization;
- (b) make all adjustments of the assets and liabilities of the municipality dissolved between any municipalities affected by the order of dissolution as may be agreed upon or, in default of agreement, as the Municipal Board may deem equitable;
- (c) define the municipality dissolved as a special area and adjust the rights, claims, liabilities and obligations of the ratepayers of such area and provide the extent to and the manner in which the liabilities of the municipality shall be discharged by the imposition of rates upon the rateable property in such area or otherwise;
- (d) appoint a referee or referees who shall have all the powers mentioned in section 55 of *The Ontario Municipal Board Act* and who shall receive such remuneration and expenses as the Municipal Board shall determine and the Municipal Board may order by whom and in what proportions such remuneration and expenses shall be paid, and who shall make inquiry and report to the Municipal Board upon the adjustment of assets and liabilities and of the rights, claims, liabilities and obligations referred to in clauses *b* and *c*, such report to be filed with the Municipal Board within such time as the Municipal Board may from time to time allow and the Municipal Board shall consider the report and may hear such representations with respect thereto as it may see fit and may adopt, vary or amend the report or refer the report back to the referee or referees for further consideration;
- (e) do or cause to be done all such other matters, acts, deeds and things as may be necessary or incidental to the carrying out of the dissolution provided for in such order. 1943, c. 16, s. 2, *part*; 1950, c. 46, s. 2 (2).

Municipal Board may make rules, etc.

(7) The Municipal Board may make such rules and regulations and issue such orders and directions with respect to any matter not specifically provided for in this section as it may deem necessary or desirable in connection with any dissolution.

Interpretation.

(8) In this section, "municipality" includes police village, school section in an unorganized township or unorganized townships or in unsurveyed territory, road commissioners under *The Statute Labour Act*, and local board as defined in *The Department of Municipal Affairs Act*. 1943, c. 16, s. 2, *part*.

Rev. Stat., cc. 372, 96.

PART II

MUNICIPAL COUNCILS—HOW COMPOSED

COUNTIES

County councils.

48.—(1) The council of a county shall be composed of the reeves and deputy reeves of the towns, not being separated towns, and of the villages and townships in the county.

Vote of reeve and deputy reeve in towns, villages and townships.

(2) Where a town not being a separated town, or a village, or a township in a county, has more than 2,000 and not more than 3,000 municipal electors the reeve shall as a member of the county council have an additional vote, and where it has more than 3,000 municipal electors the reeve and the deputy reeve shall as members of the county council each have an additional vote.

Application of s. 54, subss. 2, 3 and 4.

(3) Subsections 2, 3 and 4 of section 54 shall apply to this section. R.S.O. 1937, c. 266, s. 45.

CITIES

Councils of cities, how composed.

49.—(1) The council of a city shall be composed of a mayor, the members of the board of control if the city has such a board, and,

- (a) three aldermen for each ward; or
- (b) where the council by by-law so provides two aldermen for each ward;
- (c) in the case of a city having a population of not more than 15,000, where the council by by-law so provides, one alderman for every 1,000 of the population up to but not exceeding the maximum number provided by by-law. R.S.O. 1937, c. 266, s. 46 (1); 1946, c. 60, s. 10; 1947, c. 69, s. 4 (1).

(2) In the case provided for by clause *c* of subsection 1, ^{By-law for election by general vote.} or where the council of a city having a population of more than 15,000 by by-law so provides, the aldermen shall be elected by general vote, and in the latter case the number of aldermen shall be the same as if they were elected by wards.

(3) A by-law for the purposes mentioned in clause *b* or ^{Repeal of by-law.} *c* of subsection 1 shall not be repealed until at least two annual elections have been held under it, and a by-law under subsection 2 shall not be repealed until at least five annual elections have been held under it.

(4) A by-law for any of the purposes mentioned in sub- ^{When and how by-law to be passed.} sections 1 and 2 and a by-law repealing any such by-law shall be passed not later in the year than the 1st day of November and shall not be passed unless it has received the assent of the municipal electors.

(5) Every such by-law including a repealing by-law shall ^{When by-law to take effect.} take effect at and for the purposes of the annual election next after the passing of it.

(6) Subject to subsection 3 where the petition of at least ^{Submission of by-law on petition of electors.} one-fifth of the municipal electors is presented on or before the 1st day of November in any year, praying for the passing of a by-law repealing a by-law for the purpose mentioned in clause *c* of subsection 1, or where a petition of not less than 400 electors is presented praying for the passing of a by-law for the purpose mentioned in subsection 2, or for the repeal of a by-law passed under that subsection, the council shall submit the question of making the proposed change to a vote of the municipal electors at the next ensuing annual election and if the voting is in favour of the change shall without delay pass a by-law in accordance with the prayer of the petition. R.S.O. 1937, c. 266, s. 46 (2-6).

TOWNS

50.—(1) The council of a town in unorganized territory ^{Councils of towns in unorganized territory.} shall be composed of a mayor and six councillors to be elected by general vote, or where the council so provides, the council shall consist of a mayor and four councillors to be elected by general vote. R.S.O. 1937, c. 266, s. 47 (1); 1946, c. 60, s. 11.

(2) If the town has a population of not less than 5,000 the ^{Councils of towns over 5,000.} council may provide that the council shall be composed of a mayor and nine councillors, or a mayor and seven councillors, to be elected by general vote. R.S.O. 1937, c. 266, s. 47 (2); 1947, c. 69, s. 5.

(3) Where a town in unorganized territory has been divided ^{Election by wards.} into wards the council may provide that the council shall be

composed of a mayor and one councillor for each ward, and the remaining councillors to complete the full number of four, six, seven or nine, as the case may be, to be elected by general vote. R.S.O. 1937, c. 266, s. 47 (3); 1950, c. 46, s. 3.

Councils of towns of more than 5,000 in counties.

51.—(1) Where a town in a county has a population of more than 5,000 and less than five wards, the council shall be composed of a mayor, a reeve, a deputy reeve and three councillors for each ward, but if there are five or more wards the council shall be composed of a mayor, a reeve, a deputy reeve and two councillors for each ward.

Alternate powers.

(2) Where the town has less than five wards, the council may provide that the council shall be composed of a mayor, a reeve, a deputy reeve and two councillors for each ward or that the council shall be composed of a mayor, a reeve, a deputy reeve and six councillors, or a mayor, a reeve, a deputy reeve and four councillors, to be elected by general vote, and where the town has five or more wards, the council may provide that the council shall be composed of a mayor, a reeve, a deputy reeve and one councillor for each ward. 1947, c. 69, s. 6.

Case of town of not more than 5,000.

(3) Where the town has a population of not more than 5,000, the council shall be composed of a mayor, a reeve, a deputy reeve and,

(a) six councillors to be elected by general vote, or where the council so provides, four councillors to be elected by general vote; or

(b) where the council so provides one councillor for each ward and the remaining councillors to complete the full number of four or six, as the case may be, to be elected by general vote. R.S.O. 1937, c. 266, s. 48 (3); 1939, c. 30, s. 3 (2); 1946, c. 60, s. 12 (2, 3).

Repeal of by-laws.

(4) A by-law passed under section 50 or under subsection 2 or 3 of this section shall not be repealed until two annual elections have been held under it.

Time for passing of by-laws; assent of electors.

(5) A by-law passed under section 50 or under subsection 2 or 3 of this section, and a by-law repealing any such by-law, shall be passed not later in the year than the 1st day of November, and shall not be passed unless it has received the assent of the municipal electors.

When by-law to take effect.

(6) Every such by-law, including a repealing by-law, shall take effect at and for the purposes of the annual election next after its passing. 1950, c. 46, s. 4.

Submission of questions on petition of electors.

(7) Subject to subsection 4, where a petition of not less than one-fifth of the municipal electors is presented on or

before the 1st day of November in any year praying for the passing of a by-law for any of the purposes mentioned in this section or for repealing any such by-law, except a by-law reducing the number of councillors to two for each ward, the council shall submit the question of making the proposed change to a vote of the municipal electors at the next ensuing annual election and if the voting is in favour of the proposed change shall without delay pass a by-law in accordance with the prayer of the petition.

(8) Subject to subsection 4, where a by-law has been passed for reducing the number of councillors to two for each ward, the council, upon the petition of not less than 100 resident municipal electors, presented not later in the year than the 1st day of November shall submit the question of repealing the by-law to a vote of the electors at the next ensuing annual election and if the voting is in favour of the repeal shall without delay pass a by-law in accordance with the prayer of the petition. R.S.O. 1937, c. 266, s. 48 (7, 8). Submission of question of repeal.

52. For the purposes of sections 49 to 51 the population shall be determined by the latest census of Canada. R.S.O. 1937, c. 266, s. 49. Population, how determined.

VILLAGES AND TOWNSHIPS

53.—(1) The council of a village and the council of a township shall consist of a reeve, a deputy reeve where so entitled, and a sufficient number of councillors to make up five in all, and they shall all be elected by general vote. R.S.O. 1937, c. 266, s. 50 (1); 1939, c. 30, s. 4. Councils of villages and townships.

(2) The council of a township in unorganized territory shall consist of a reeve and four councillors. R.S.O. 1937, c. 266, s. 50 (2). Township in unorganized territory.

(3) Where a village or township is divided into wards, the council, notwithstanding any general or special Act, shall be composed of a reeve to be elected by general vote, and a deputy reeve and a councillor to be elected for each ward, and where there is less than five wards, the Municipal Board may by order provide for an additional councillor for any ward having a population greater than 10,000. Wards.

(4) Notwithstanding any other provision, no village or township shall have greater representation upon the county council than the reeve and one deputy reeve to be appointed by the council. 1946, c. 60, s. 13 (1). County council.

TOWNS, VILLAGES AND TOWNSHIPS

Deputy
reeves.

54.—(1) A town not being a separated town, and a village and a township in a county shall each be entitled where it has more than 1,000 municipal electors to a deputy reeve.

Number of
electors,
how deter-
mined.

(2) The number of municipal electors shall be determined by the last revised voters' list but in counting the names, the name of the same person shall not be counted more than once, and the name of a person who is a municipal elector by reason of being the wife or husband of the person so rated or entitled to be rated for land as mentioned in clause *d* of subsection 1 of section 58 or who is entered on the list as a farmer's daughter or farmer's sister or farmer's son's wife shall not be counted.

Certificate
of clerk.

(3) It shall be the duty of the clerk of any such municipality having less than 10,000 municipal electors according to the last revised voters' list at least six days before the day fixed for holding the meeting for the nomination of candidates for membership in the council to send by registered letter post to the clerk of the county, a certificate under his hand and the seal of the corporation, stating the total number of municipal electors according to the last revised voters' list who are to be counted under the provisions of subsection 2, and to post up in his office a duplicate of such certificate.

Penalty
for failure.

(4) If the clerk fails to send such certificate within the prescribed time he shall be guilty of an offence and liable to a penalty of not more than \$50 and if he certifies to a larger number of municipal electors than should be counted under the provisions of subsection 2, he shall be guilty of an offence and liable to a penalty of not more than \$200. R.S.O. 1937, c. 266, s. 51.

QUALIFICATIONS

Qualification
of
candidates.

55.—(1) Every person shall be qualified to be elected a member of the council of a local municipality who,

- (a) is a householder residing in the municipality, or is rated on the last revised assessment roll of the municipality for land held in his own right for an amount sufficient to entitle him to be entered on the voters' list and resides in or within five miles of the municipality;
- (b) is entered on the last revised voters' list as qualified to vote at municipal elections;
- (c) is a British subject and has taken the oath of allegiance (Form 2);

(d) is of the full age of 21 years; and

(e) is not disqualified under this or any other Act.
R.S.O. 1937, c. 266, s. 52 (1); 1939, c. 30, s. 5.

(2) The rating for land shall be in respect of a freehold Rating for land. or leasehold, legal or equitable, or partly of each.

(3) "Householder" means the person who occupies and Interpretation. is assessed as owner or tenant of a dwelling or apartment house or part of a dwelling or apartment house separately occupied as a dwelling.

(4) Where territory has been annexed to an urban municipality, until an assessment roll for the municipality, including Qualification where land annexed to urban municipality. such territory, has been made and revised, it shall be sufficient for the purposes of this section if the assessment is upon the last revised assessment roll of the municipality in which the territory was situate before its annexation, and for a sufficient amount to qualify him for election to the council of that municipality.

(5) Where the inhabitants of a township or locality in un- Qualification in new township. organized territory have become incorporated as a township or a union of townships, the only qualification necessary at the first election shall be that the person is of the full age of 21 years, a British subject and a householder resident in the municipality. R.S.O. 1937, c. 266, s. 52 (2-5).

DISQUALIFICATION

56.—(1) The following shall not be eligible to be elected a Persons disqualified from being members of a council. member of a council or be entitled to sit or vote therein:

- (a) a judge of any court;
- (b) a jailer or a keeper of a lock-up;
- (c) a sheriff, deputy sheriff or sheriff's bailiff;
- (d) a chief constable of a city or town;
- (e) an assessment commissioner, assessor, a collector of taxes, a treasurer, a clerk, or any other officer, employee or servant of the corporation of a municipality;
R.S.O. 1937, c. 266, s. 53 (1), cls. (a-e).
- (f) a trustee of a police village; 1950, c. 46, s. 5 (1), *part.*
- (g) a person other than the head of the council who is a member of a board or commission appointed or elected for the construction, management or control of a transportation system which is owned by, or leased to, or controlled by a municipal corporation,

or by trustees, or by any board or commission acting for or on behalf of such corporation, and this clause shall have effect notwithstanding the provisions of any general or special Act or any by-law of a municipal corporation; R.S.O. 1937, c. 266, s. 53 (1), cl. (f); 1948, c. 59, s. 2 (1).

Rev. Stat.,
cc. 320, 281.

- (h) a person other than the head of the council who is an appointed or elected member of a board, commission or other body to which the construction, management or control of a public utility belonging to the corporation of the municipality is entrusted under *The Public Utilities Act*, *The Power Commission Act* or any special Act; 1950, c. 46, s. 5 (1), *part*.
- (i) a clerk or bailiff of a division court;
- (j) a Crown attorney or a clerk of the peace;
- (k) a registrar or a deputy registrar of deeds;
- (l) a master or a local master of titles; R.S.O. 1937, c. 266, s. 53 (1), cls. (g-j).
- (m) a member of a board of education or of a public, separate or high school board, unless he has on or before the day of nomination filed his resignation with the secretary of the board; R.S.O. 1937, c. 266, s. 53 (1), cl. (k); 1940, c. 18, s. 1; 1947, c. 69, s. 7.
- (n) a magistrate;
- (o) a clerk of a county or district court;
- (p) a deputy clerk of the Crown or a local registrar; R.S.O. 1937, c. 266, s. 53 (1), cls. (l-n).
- (q) a person having himself or by or with or through another an interest in any contract with the corporation or with any commission or person acting for the corporation or in any contract for the supply of goods or materials to a contractor for work for which the corporation pays or is liable directly or indirectly to pay, or which is subject to the control or supervision of the council or of an officer of the corporation, or who has an unsatisfied claim for such goods or materials,
 - (i) "contract" in this clause includes a contract, other than a teacher's contract, with a public or high school board or a board of education; R.S.O. 1937, c. 266, s. 53 (1), cl. (o); 1941, c. 35, s. 1; 1950, c. 46, s. 5 (2).

- (r) a person who, either himself or by or with or through another has any claim, action or proceeding against the corporation, but this clause shall not apply with respect to any moneys paid or payable to a member of council under section 417, 418, 419 or 420;
- (s) a person who, either himself or by or with or through another, is counsel or solicitor in the prosecution of any claim, action or proceeding against the corporation or in opposing or defending any claim, action or proceeding by the corporation;
- (t) an owner or tenant against the land in respect of which he qualifies there are at the time of the nomination any taxes of a preceding year or years overdue and unpaid;
- (u) a tenant who at the time of the nomination owes more than three months rent upon the property in respect of which he qualifies;
- (v) a person who is an undischarged bankrupt or insolvent within the meaning of any bankruptcy or insolvency Act in force in Ontario; R.S.O. 1937, c. 266, s. 53 (1), cls. (p-t).
- (w) a person whose taxes in respect of an assessment for business at the time of the nomination are overdue and unpaid. R.S.O. 1937, c. 266, s. 53 (1), cl. (u); 1939, c. 30, s. 6.

(2) In any municipality in which under this or any special Act members of council are elected for a term of two or more years, no person who is a member of the council and whose term of office has at least two months to run after the day on which the nomination meeting for the annual municipal election is to be held shall be eligible to be nominated for membership in the council in any other office unless he has at least 10 days before the day of nomination filed his resignation from the office which he then holds with the clerk of the municipality, and the clerk shall not place on the ballot paper the name of any such person as a candidate who fails to file such resignation within the time aforesaid. R.S.O. 1937, c. 266, s. 53 (2).

Ineligibility of member whose term of office has not expired to qualify for another office unless he resigns his present office.

- (3) Subsection 1 shall not apply to a person by reason only,
 - (a) of his being a shareholder in an incorporated company having dealings or a contract with the corporation;
 - (b) of his being a lessee of the corporation for a term of 21 years or upwards of any property of the corporation;

Disqualification not to apply in certain cases.

- (c) that part of his property is exempt wholly or in part from taxation, whether such exemption is founded on an agreement with the corporation or on a by-law of the council;
- (d) of his being the proprietor of or otherwise interested in a newspaper or other periodical publication in which official advertisements or notices which appear in other newspapers or periodical publications are published by the council or for which the council is a subscriber or which is furnished to any department or officer of a corporation if the same are paid for at the usual rates, and he has not agreed with the corporation to do the whole or the principal part of its printing;
- (e) of his having been appointed and paid for his services as commissioner, superintendent or overseer of any highway or of any work undertaken wholly or in part at the expense of the corporation;
- (f) of his being a consumer or taker of anything supplied by the corporation or any commission under *The Public Utilities Act* or of his having entered into a contract with the corporation or commission for the supply of it to him;
- (g) of his having entered into an agreement of sale with a municipal housing commission; R.S.O. 1937, c. 266, s. 53 (3), cls. (a-g).
- (h) while being a member of council, of his acting in the place and stead of the head of the council as a member of any board, commission or other body of which the head of the council is a member *ex officio* under any general or special Act. 1950, c. 46, s. 5 (3).

Rev. Stat.,
c. 320.

Persons not
to vote on
certain
questions.

(4) A person being such a shareholder shall not vote on any question affecting the company or being such a lessee shall not vote on any question affecting his lease or his rights or liabilities thereunder, or being so exempt from taxation shall not vote on any question affecting the property so exempt, or being such a proprietor of or otherwise interested in a newspaper or other periodical publication shall not vote on any question affecting his dealings with the corporation.

Resignation,
when to
vacate seat.

(5) The filing of the resignation mentioned in clause *m* of subsection 1 shall render vacant the seat of the member. R.S.O. 1937, c. 266, s. 53 (4, 5).

Appoint-
ments to
two com-
missions,
etc.

(6) Notwithstanding the provisions of clause *g* of subsection 1 and of section 42 of *The Public Utilities Act*, a member of a board or commission appointed or elected for the construction,

management or control of a transportation system mentioned in the said clause *g* may be appointed or elected and be entitled to sit and vote as a member of a commission established under *The Power Commission Act*, *The Public Utilities Act* or any special Act for the management and control of a public utility. R.S.O. 1937, c. 266, s. 53 (6); 1948, c. 59, s. 2 (2). Rev. Stat., cc. 281, 320.

57. If a member of a council in his own name or in that of another and alone or jointly with another enters into a contract with or makes a purchase from or a sale to the corporation, the contract, purchase or sale as against the corporation shall be void. R.S.O. 1937, c. 266, s. 54. Contracts by members with corporation to be void.

PART III

MUNICIPAL ELECTIONS

WHO TO BE ENTERED ON VOTERS' LIST

58.—(1) Every person shall be entitled to be entered on the voters' list prepared under Part I or II of *The Voters' Lists Act*, who is, Qualification to be entered on voters' list. Rev. Stat., c. 414.

- (a) of the full age of 21 years;
- (b) a British subject by birth or naturalization;
- (c) not disqualified under this Act or otherwise by law prohibited from voting; and
- (d) rated or entitled to be rated to the amount herein-after mentioned on the last revised assessment roll of the local municipality for land held in his or her own right as owner or tenant or who is the wife or husband of the person so rated or entitled to be rated for land as owner or tenant, or who is entered or was entitled to be entered on such roll as a farmer's son, farmer's daughter or farmer's sister or who is the wife of a person who is entered or was entitled to be entered on such roll as a farmer's son.

(2) The rating for land shall be in respect of a freehold or leasehold, legal or equitable or partly of each to an amount not less than, Amount of rating necessary.

- (a) in villages and townships, \$100;
- (b) in towns having a population not exceeding 3,000, \$200;
- (c) in towns having a population exceeding 3,000, \$300;
- (d) in cities, \$400.

Where owner and occupant severally rated.

Joint tenancy.

(3) If both the owner and the occupant are severally but not jointly rated, each shall be deemed to be rated.

(4) If the rating of land owned or occupied by two or more persons jointly and not severally is sufficient, if equally divided among them, to give a qualification to all, each of them shall be deemed to be rated within the meaning of this section, and if such rating is insufficient to qualify all, so many of them shall be deemed to be rated within the meaning of this section as will result in whole numbers from a division of the minimum rating prescribed by subsection 2 into the total rating of the land, and in such case the persons who shall be deemed to be rated shall be named in a writing to be signed by all such joint owners or occupants and upon such nomination being filed with the clerk.

Farmers' sons, daughters and sisters. Rev. Stat., c. 24.

(5) A person not entitled under *The Assessment Act* to be entered on the last revised assessment roll as a farmer's son, or farmer's daughter, or a farmer's sister, by reason of not having resided on the farm as therein required, shall be entitled to be entered on the voters' list if he or she has the other qualifications of a farmer's son, or a farmer's daughter, or a farmer's sister as prescribed by that Act and has resided on the farm of his or her father or mother or brother for the 12 months next preceding the date of the final revision of the assessment roll or for the 12 months next preceding the last day for making complaint to the judge under *The Voters' Lists Act*, and where under the provisions hereof a farmer's son is entered on the list his wife, if otherwise qualified, shall also be entered thereon.

Rev. Stat., c. 414.

Occasional or temporary absence.

(6) Occasional or temporary absence from the farm for a time or times not exceeding in the whole six of the twelve months shall not disentitle a farmer's son, farmer's daughter or farmer's sister to be entered on the voters' list. R.S.O. 1937, c. 266, s. 56 (1-6).

Certificate for voters if names omitted.

(7) Where after the voters' list has been finally revised, the clerk is satisfied that the name of a person entitled to be entered thereon under this section has by error been omitted therefrom he may, if such person is entered on the last revised assessment roll and is not otherwise disqualified, issue a certificate (Form 10), authorizing the returning officer or proper deputy returning officer to enter the name of such person on the voters' list to entitle him to vote as if his name had been entered thereon before the list was revised. R.S.O. 1937, c. 266, s. 56 (7); 1941, c. 35, s. 3.

RIGHT TO VOTE

Right to vote at municipal elections.

59. Subject to sections 62, 63 and 64, every person whose name is entered on the proper voters' list shall be entitled to

vote at a municipal election, except that in the case of the wife or husband of a tenant she or he shall not be entitled to vote unless the tenant is a resident of the municipality at the date of and has resided therein for one month next before the election and in the case of a farmer's son or farmer's daughter, or farmer's sister, he or she is a resident of the municipality at the date of the election. R.S.O. 1937, c. 266, s. 57.

60. Except as to the disqualification arising from not residing in the municipality at the time of the election in the case of a farmer's son, or farmer's daughter, or farmer's sister voter, or from the non-payment of taxes in the case of a voter whose name appears on the defaulters' list, no question as to the qualifications of any person whose name is entered on the proper list of voters shall be raised at an election. R.S.O. 1937, c. 266, s. 58.

Qualifications not to be questioned at election except as to non-residence.

61. Any man or woman entered upon the list as the husband or wife of a tenant who is disqualified from voting under sections 59 and 60 shall also be disqualified from voting. R.S.O. 1937, c. 266, s. 59.

Disqualification of husband or wife of tenant.

62.—(1) No person whose name appears on the defaulters' list provided for by section 104 shall be entitled to vote in respect of real property in a municipality the council of which has passed a by-law under paragraph 65 of subsection 1 of section 388, unless at the time of tendering his vote he produces and leaves with the deputy returning officer a certificate from the treasurer, or the collector, showing that the taxes in respect of which the default was made have since been paid.

Persons in default for non-payment of taxes not to vote.

(2) The deputy returning officer shall file the certificate and note the same on the defaulters' list. R.S.O. 1937, c. 266, s. 60.

Certificate to be filed.

63. The clerk of the municipality shall not be entitled to vote except to give a casting vote as provided by section 139. R.S.O. 1937, c. 266, s. 61.

Clerk may give a casting vote only.

64.—(1) No person shall be entitled to vote who, at any time, before or during the election, has been employed as counsel, agent, solicitor or clerk or in any other capacity by a candidate or by any other person at or in reference to, or for the purpose of forwarding the election, and who has received or expects to receive, either before, during or after the election, from any candidate or from any other person, for acting in such capacity, any money, fee, office, place or employment, or any promise, pledge or security therefor.

Persons employed by candidates for reward not to vote.

(2) Subsection 1 shall not apply to a person who performs any official duty in connection with the election and who re-

Exceptions.

ceives the fees therefor to which he is entitled. R.S.O. 1937, c. 266, s. 62.

Where territory added to city, town or village, or a new city, town, or village erected with added territory, and no voters' lists including such territory.

65. Where territory has been annexed to an urban municipality, or a town with additional territory erected into a city, or a village with additional territory erected into a town, or a new town or village erected, and an election takes place before a voters' list including the names of the persons entitled to vote in such territory, or for the new town or village, is certified by the judge, all persons who would have been qualified as municipal electors if such addition had not been made or the new town or village erected, shall be entitled to vote in the city, town or village at such election. R.S.O. 1937, c. 266, s. 63.

NOMINATION MEETING

Nomina-
tion and
polling days.

66.—(1) Except when otherwise provided by by-law passed in accordance with this Act, a meeting of the electors shall take place annually for the nomination of candidates for council and any local board or commission any members of which are required to be elected by ballot by the municipal electors at the hall of the municipality at noon on the last Monday in December and the day for polling shall be the first Monday in January next thereafter.

When
nomination
day falls on
Christmas.

(2) When the last Monday in December is Christmas Day, the nomination meeting shall be held on the preceding Friday. 1946, c. 60, s. 14, *part.*

Power to
fix place
and hour
of nomina-
tion meeting.

(3) The council may by by-law passed not later in the year than the 1st day of November fix the place and time of the nomination meeting and when the election for any office is by general vote the by-law may fix different places and times for the nomination meeting for the respective offices and when the election is by wards the by-law may fix the place and the time in each ward for the nomination meeting thereof, and the by-law shall remain in force from year to year until repealed. 1947, c. 69, s. 8.

Power to
fix nomina-
tion and
polling days.

67.—(1) The council may, not later in the year than the 1st day of November, fix the day for the meeting of electors for the nomination of candidates for council and for any local board or commission any members of which are to be elected by ballot by the electors and the day for the polling, provided that the days so fixed occur during the period from the 15th day of November to the 2nd day of January both inclusive, and are other than a Sunday or the 24th, 25th or 31st days of December, and that the day fixed for nominations is not less than seven days prior to the day fixed for polling, and the by-

law shall remain in force from year to year until repealed, but no such by-law shall be amended or repealed after the 1st day of November in any year. 1947, c. 69, s. 9, *part*; 1948, c. 59, s. 3; 1950, c. 46, s. 6.

(2) The by-law shall fix the place and the time of the nomination meeting, and when the election is by general vote the by-law may fix different places and times for the nomination meeting for the respective offices, and when the election is by wards the by-law may fix the place and the time in each ward for the nomination meeting thereof. 1947, c. 69, s. 9, *part*. Time and place of nomination meetings.

(3) Where a township adjoins an urban municipality, a place within the urban municipality may be designated as the place for holding the nomination meeting of the township. 1946, c. 60, s. 14, *part*. Where a township adjoins an urban municipality.

68. When the incorporation of a new municipality takes effect on the 31st day of December, the nomination meeting and all proceedings incidental thereto and to the holding of the election on the first Monday in January next thereafter may be had and taken as if the incorporation had taken effect. 1946, c. 60, s. 14, *part*. New municipalities.

69. The returning officer shall give at least six days notice of the nomination meeting. 1946, c. 60, s. 14, *part*. Notice.

70.—(1) The nomination meeting shall be called to order by the returning officer at the place and time called for in the notice mentioned in section 69 and the candidates for each office shall be proposed and seconded *seriatim*. 1947, c. 69, s. 10, *part*; 1949, c. 61, s. 3. Nomination meetings, procedure.

(2) Every nomination shall be in writing and state the name, residence and occupation of the candidate and shall be signed by the proposer and seconder, both of whom shall be municipal electors and present, and shall be filed with the returning officer within one hour from the opening of the nomination meeting. Nomination papers.

(3) Failure to comply with subsection 1 or 2 shall not invalidate any nomination if it is received and acted upon by the returning officer without objection. Effect of non-compliance with subs. 1 or 2.

(4) When a proposed candidate is not present, his nomination paper shall not be valid unless there is attached thereto evidence satisfactory to the returning officer that he consents to be so nominated. When proposed candidate absent.

(5) The name, residence and occupation of every person nominated for the respective offices shall be posted up as the nomination papers are filed. Posting up of candidates' names, etc.

Resignation
of candi-
dates.

(6) At the nomination meeting or before nine o'clock in the afternoon of the same day, a candidate may resign in respect of one or more offices for which he is nominated by filing his resignation in writing with the returning officer or the clerk and in default he shall be deemed to be nominated for the office for which he was first nominated.

Qualifica-
tion of
candidate.

(7) When a candidate makes the filings mentioned in subsection 1 of section 72 by filing the same with the returning officer or the clerk at the nomination meeting or before nine o'clock in the afternoon of the same day, he shall be deemed to have resigned as candidate for all other offices for which he was nominated.

Close of
meeting.

(8) The returning officer shall not close the nomination meeting until such business as he considers may properly be brought before it has been disposed of.

Furnishing
of certi-
ficates.

(9) The treasurer or collector of the municipality shall be in attendance at his office, or such place as is designated by the council, at least one hour prior to the holding of the nomination meeting for the purpose of furnishing the certificates referred to in subsection 1 of section 72. 1947, c. 69, s. 10, *part*.

Names of
candidates
to be
posted up.

71. Immediately following the nomination meeting the returning officer shall post up in the office of the clerk the name, residence and occupation of every person nominated for the respective offices. 1946, c. 60, s. 14, *part*.

Declaration
of qualifi-
cation,
etc.

72.—(1) Before nine o'clock in the afternoon of the day following the nomination meeting, provided that where such day is a holiday, not on such day but before noon on the following day, every candidate shall file in the office of the clerk,

(a) a declaration of qualification (Form 1);

(b) an oath of allegiance (Form 2); and

(c) a certificate of the treasurer or collector that there were no unpaid taxes at the time of his nomination for any preceding year against the land in respect of which he is qualifying, or a statutory declaration to the same effect.

Absence or
illness of
candidates.

(2) When a candidate is unable on account of illness or absence from the municipality to make the declaration or to file it within the prescribed time and it appears to the clerk that the candidate is qualified to be elected, any municipal elector may in lieu of such declaration, file within the prescribed time a declaration stating that the inability exists and the nature of it and that he has reason to believe and does believe

that the candidate possesses the qualifications prescribed for the office for which he has been nominated and that if elected he will accept the office.

(3) Any person who has made the filings required by subsection 1 may resign in writing signed by him and attested by a witness and delivered to the clerk within the time prescribed in subsection 1. Withdrawal of candidates.

(4) The clerk's office shall remain open until nine o'clock in the afternoon of the day following the nomination meeting, but if that day is a holiday it shall be closed, in which case it shall remain open the following day until noon, so that filings may be made. Clerk's office to remain open.

(5) The clerk shall not place on the ballot paper the name of a candidate who fails to make the filings required by subsection 1 or on whose behalf a declaration has not been filed under subsection 2. 1946, c. 60, s. 14, *part*. Failure to file.

73. If no more candidates qualify for any office than the number to be elected, the clerk shall forthwith after the expiry of the time prescribed in section 72 declare the candidate or candidates duly elected. 1947, c. 69, s. 11. Acclamations.

74. When from any cause the requisite number of persons is not elected, the clerk shall cause a new election to be held as soon as practicable to fill the vacancies, and until such election is held and the council, or sufficient members to exceed one-half thereof when complete, is elected, the council of the preceding year shall continue in office. 1946, c. 60, s. 14, *part*. New election.

75. If a candidate for any office dies after having qualified and before the close of the poll, the returning officer shall fix a new day for the nomination of candidates for such office and for polling, and the proceedings in such case shall, as nearly as practicable, be the same as for a new election. 1947, c. 69, s. 12. New election in case of death of candidate.

76. The members of a council shall hold office until their successors are elected and the new council is organized. R.S.O. 1937, c. 266, s. 78. Term of office.

77.—(1) Notwithstanding any general or special Act, the council of a local municipality may by by-law passed with the assent of the electors extend the term of office of the members of the council to two years, and may with the like assent repeal such by-law. 1946, c. 60, s. 15, *part*; 1947, c. 69, s. 13. Two-year terms.

(2) The by-law passed under subsection 1 may provide that of the members, other than the mayor, reeve and deputy Staggered system.

reeve, the one-half, or in the case of an uneven number the majority, receiving the highest number of votes shall remain in office for a two-year term and the remainder shall remain in office for a one-year term and thereafter all the members shall be elected for a two-year term.

Idem, in
wards.

(3) Where two or more members other than a deputy reeve are elected in a ward, the by-law passed under subsection 1 shall provide that of the members elected the one-half, or in the case of an uneven number the majority, receiving the highest number of votes shall remain in office for a two-year term and the remainder shall remain in office for a one-year term and thereafter all the members shall be elected for a two-year term.

Where one
member only
elected.

(4) Where only one member, other than a deputy reeve, is elected in a ward, the by-law passed under subsection 1 shall provide that such member shall be elected for a one-year term and at every election thereafter, for a two-year term.

Acclama-
tions.

(5) Where a two-year term by-law providing for the staggered system is passed and the full number of members to be elected are elected by acclamation, the members so elected may at the first meeting of the council agree as to which of them shall remain in office for a two-year term and which of them shall remain in office for a one-year term, and failing agreement the question shall be determined by lot to be cast by the clerk in the presence of the members, and in either case the result shall be entered in the minutes.

Local
boards.

Rev. Stat.,
c. 96.

(6) Where a by-law has been or is passed under subsection 1, the council may provide that every elected member of any local board as defined in *The Department of Municipal Affairs Act* shall, notwithstanding the provisions of any general or special Act, be elected at the same time and hold office for the same term as the members of the council and where the term of office of any such board to which this subsection applies expires before the next election of members of the council his term of office shall be extended for one year, and where the power conferred by this subsection is exercised the provisions of subsection 2 shall apply *mutatis mutandis*. 1946, c. 60, s. 15, *part*.

Election to
be held in
municipality.

Appoint-
ment of
places for
nomination
and polling,
deputy
returning
officers, etc.

78. Subject to subsection 3 of section 67 and to section 86, the election shall be held in the municipality. R.S.O. 1937, c. 266, s. 80; 1947, c. 69, s. 14.

79.—(1) The council of every local municipality in which the election is by wards or polling subdivisions, shall from time to time appoint,

- (a) the places for holding the nominations for each ward;
- (b) a returning officer to hold the nomination for each ward;
- (c) the places at which polls shall be opened if a poll is required;
- (d) a deputy returning officer and a poll clerk for each polling place. R.S.O. 1937, c. 266, s. 81 (1); 1946, c. 60, s. 16 (1).

(2) In a city having a population of not less than 100,000, the returning officers, deputy returning officers and poll clerks shall be appointed on the recommendation of the clerk, and such appointments shall be made at least one month before polling day, and as far as practicable the deputy returning officers and poll clerks shall be appointed for polling places in the subdivisions in which they reside. Election officers, how appointed in cities over 100,000.

(3) If a poll clerk signifies to the returning officer in writing that he will not act, the returning officer shall appoint another person to act in his place. Poll clerk refusing to act, etc.

(4) If a poll clerk does not attend at the opening of the poll, the deputy returning officer shall appoint another person to act in his place. R.S.O. 1937, c. 266, s. 81 (2-4). Appointment of poll clerk by D.R.O.

(5) The council on the recommendation of the clerk may appoint such election assistants, not exceeding one for each polling place, as may be deemed necessary to assist the deputy returning officers and poll clerks in the conduct of the election, and every such assistant shall be authorized in writing to enter, remain and assist in any polling place during any part of the time the poll is open and at the counting of the votes. 1946, c. 60, s. 16 (2). Election assistants.

80. The clerk shall be the returning officer for the whole municipality, and if a poll is required, the deputy returning officers shall make to him the returns for their respective wards or polling subdivisions. R.S.O. 1937, c. 266, s. 82. Clerk to be returning officer for whole municipality.

81.—(1) By-laws may be passed by local municipalities for dividing the municipality, or where the municipality is divided into wards, the wards, into two or more polling subdivisions and for establishing one or more polling places in each polling subdivision. Polling subdivisions and places.

(2) One or more polling places shall be provided for each polling subdivision in accordance with the convenience of the electors, and where there are two or more polling places in a polling subdivision each polling place shall be designated by Polling places to be provided.

the initial letters of the electors who are to vote therein, that is to say, A to M and N to Z, or as the case may be.

Boundaries
to be
defined.

(3) Every polling subdivision shall have well-defined boundaries and shall be formed in the most convenient manner so that the number of electors entitled to vote in each polling place shall as nearly as possible equal but not exceed 450, determined by the last revised assessment roll.

Polling sub-
division to
be in one
electoral
district.
Where
electors
exceed 450.

(4) A polling subdivision shall not include territory in more than one electoral district.

(5) Where the clerk finds that the number of electors in a polling subdivision or polling place exceeds 450 he shall notify the council of such fact.

Redivision.

(6) Where the number of electors in a polling subdivision or polling place exceeds 450 or where the council is of opinion that the convenience of the electors will be promoted, the council may make a redivision of the polling subdivisions or polling places so that the polling subdivisions and polling places will conform with this section.

When re-
division to
take effect.

(7) When a polling subdivision or polling place is created or altered after the publication of the voters' lists, such creation or alteration shall not take effect until the next voters' lists are being prepared.

Subdivisions
to be
numbered.

(8) The polling subdivisions shall be numbered consecutively and where there is more than one polling place in a polling subdivision such fact shall be indicated and a copy of the by-law by which they are established certified under the seal of the corporation and the hand of the clerk to be a true copy shall forthwith after the passing thereof be filed by the clerk in the office of the clerk of the peace for the county or district in which the municipality is situate.

Appeal.

(9) Any five electors may at any time within two months after such filing appeal in respect of any polling subdivision to the judge of the county or district court of the county or district, who shall have power to amend the by-law so as to make it conform with the provisions of this section, and the procedure on the appeal shall be the same as on a motion to quash a by-law, except that no recognizance or deposit shall be required.

Election
not to be
voided if
subdivision
is wrongly
formed.

(10) An election shall not be irregular or void or voidable for the reason that a polling subdivision which contains more than the prescribed number of electors has not been divided. 1946, c. 60, s. 17.

Uniting
polling sub-
divisions.

82. By-laws may be passed by the councils of local municipalities for uniting for any purpose any two adjoining

subdivisions and establishing one polling place therefor. 1946, c. 60, s. 18.

83.—(1) By-laws may be passed by the councils of local municipalities for providing that either, or both public and separate schoolhouses within the municipality or a public building belonging to or controlled by the corporation and within the municipality shall be used for a polling place, or for polling places, for one or more polling subdivisions and any such schoolhouse or public building may be used, although it is not situated in the polling subdivision or polling subdivisions for which it is used.

Using public and separate schools for polling places.

(2) Where a schoolhouse is so used, the council shall forthwith pay to the board having control of the schoolhouse a sum sufficient to cover any damage done to it and any expense for cleaning or otherwise caused by such use.

Payment therefor.

(3) No school shall be so used without the consent of the board having control of such school.

Consent of school board.

(4) The board of commissioners of police or the chief constable shall cause one or more constables or clerks as the case may be to attend at each polling place in a schoolhouse or public building in which an election is being held there to perform the duties required by this Act of a constable appointed by the returning officer. R.S.O. 1937, c. 266, s. 85; 1938, c. 22, s. 3; 1946, c. 60, s. 19.

Constable to attend each such polling place.

84. In cities having a population of not less than 100,000 where difficulty arises in obtaining a suitable polling place in any polling subdivision, by-laws may be passed by councils of such cities for providing a polling place for such polling subdivision in an adjoining polling subdivision. R.S.O. 1937, c. 266, s. 86.

Polling places.

85. Where a polling place has been appointed for holding an election, or for taking a vote in a local municipality, and it is afterwards found that the building cannot be obtained, or is unsuitable for the purpose, the clerk may select in lieu of it the nearest suitable building which is available, and he shall post up and keep posted up a notice on the building named in the by-law, and in two other conspicuous places nearby, directing the voters to the place so selected. R.S.O. 1937, c. 266, s. 87.

In certain cases clerk may choose polling place.

86. The council of a township in which an urban municipality is situate may fix the place of polling for any adjoining subdivision within the limits of the urban municipality. R.S.O. 1937, c. 266, s. 88; 1939, c. 30, s. 10.

Place of polling.

Returning officer where election not by polling subdivisions.

87.—(1) In a local municipality which is not divided into polling subdivisions, the clerk or such person as the council may appoint to act in the absence of the clerk through illness or otherwise, shall be the returning officer for the nomination of candidates.

Polling place.

(2) The council shall from time to time appoint the place at which the poll shall be opened if a poll is required. R.S.O. 1937, c. 266, s. 89.

Place for nomination and polling where council fails to fix places.

88.—(1) Where a by-law to appoint the place for holding any meeting required to be held for the nomination of candidates is necessary and the council fails to pass it, the meeting shall be held at the place at which the nomination for the next preceding election was held.

Idem.

(2) Where the council fails to appoint all or any of the places at which a poll is to be opened if a poll is required, as to such of them as are not appointed, the polls shall be opened at the place or places at which the polling took place at the next preceding election. R.S.O. 1937, c. 266, s. 90.

Refusal or neglect of returning officer or deputy returning officer to perform his duties.

89.—(1) Where the returning officer for any ward notifies the clerk that he is unable or that he refuses to act or does not attend at the time and place appointed by the clerk to receive his instructions and nomination papers, or where a deputy returning officer does not attend at the time and place at which he is required by the clerk to attend to receive his ballot box, voters' lists, and other election papers, the clerk shall appoint another person to act in his place.

When electors may choose returning officer.

(2) If at the time and place appointed for holding a nomination the returning officer does not attend to hold the nomination within fifteen minutes after the time appointed or if no returning officer has been appointed, the electors present at the place for holding the nomination may choose from amongst themselves a returning officer to hold the nomination.

Deputy returning officer not attending at poll.

(3) If at the time and place appointed for holding the poll the deputy returning officer does not attend within one hour after the time appointed, the clerk shall appoint another person to act in his place and shall furnish him with a ballot box, voters' lists and other election papers.

When poll clerk to act as deputy.

(4) In a city having a population of not less than 100,000, a deputy returning officer shall not be appointed unless a poll clerk has not been appointed or if appointed is not present, but the poll clerk shall act as deputy returning officer and he shall appoint some other person to be poll clerk.

Where returning officer or deputy is unable to perform his duties.

(5) If, during the polling, the returning officer or the deputy returning officer at a polling place becomes unable, through

illness or other cause, to perform his duties, the poll clerk shall act in his place and shall perform all the duties of a returning officer or deputy returning officer, and may appoint some other person to act as poll clerk. R.S.O. 1937, c. 266, s. 91.

90.—(1) A returning officer and a deputy returning officer from the time he takes the oath of office until the day after the close of the election or of the voting on a by-law shall be a conservator of the peace and shall have all the powers of a justice of the peace. R.S.O. 1937, c. 266, s. 92 (1). Returning officers and deputy returning officers to be conservators of the peace.

(2) A returning officer, a deputy returning officer or a justice of the peace may arrest or by a verbal order cause to be arrested and placed in the custody of a constable or of any other person a person whom he on reasonable and probable grounds believes to have contravened clause g of section 150, or who disturbs the peace and good order and may cause such person to be imprisoned under an order signed by him until an hour not later than the closing of the nomination, polling or voting, as the case may be, and all constables and persons present when required shall assist the returning officer, deputy returning officer or justice of the peace in the performance of his duties under this subsection. R.S.O. 1937, c. 266, s. 92 (2); 1939, c. 30, s. 11. Arrest of person disturbing peace.

91. A returning officer, a deputy returning officer, or a justice of the peace may appoint and swear in as many special constables to assist in the preservation of the peace and order as he may deem necessary, and any person liable to serve as constable and required by a returning officer, a deputy returning officer or a justice to be sworn in as a special constable, if he refuses to be sworn in or to serve, shall be guilty of an offence and liable to a penalty of \$20. R.S.O. 1937, c. 266, s. 93. Special constables may be sworn in.

BALLOT BOXES

92.—(1) Where a poll is required, the clerk shall procure as many ballot boxes as there are polling subdivisions. Ballot boxes to be furnished.

(2) The ballot boxes shall be made of durable material, provided with lock and key, and so constructed that the ballot papers can be deposited therein and cannot be withdrawn without unlocking the box. How made.

(3) At least two days before polling day the clerk shall deliver a ballot box to every deputy returning officer. Delivery to deputy returning officers.

(4) The ballot boxes, when returned to the clerk after the election, shall be preserved by him for use at future elections, and he shall have ready for use, at all times, as many ballot boxes as there are polling subdivisions. Clerk to preserve boxes for future elections.

Penalty for failure to furnish boxes.

(5) If the clerk fails to provide the ballot boxes, he shall be guilty of an offence and liable to a penalty of \$100 in respect of every ballot box which he fails to provide.

Deputy returning officers to procure boxes when not supplied.

(6) A deputy returning officer who has not been provided with a ballot box within the time prescribed, shall forthwith procure one to be made, and he may make a requisition upon the treasurer for payment of the cost of it, and the treasurer shall pay the same to the deputy returning officer. R.S.O. 1937, c. 266, s. 94.

BALLOT PAPERS

Ballot papers to be printed.

93. Where a poll is required, the clerk shall forthwith cause to be printed a sufficient number of ballot papers for the purposes of the election. R.S.O. 1937, c. 266, s. 95.

Ballot papers, where election is by wards;

94.—(1) In cities and towns in which the aldermen or councillors are elected by wards, there shall be prepared one set of ballot papers for all the polling subdivisions containing the names of the candidates for mayor, another set for all the polling subdivisions containing the names of the candidates for reeve, or reeve and deputy reeves, and another set for each ward containing the names of the candidates for aldermen or councillors for the ward.

where aldermen or councillors elected by general vote;

(2) In cities and towns where the aldermen or councillors are elected by general vote, there shall be prepared for all the polling subdivisions one set of ballot papers containing the names of the candidates for mayor or mayor and reeve or mayor, reeve and deputy reeves, and another set containing the names of the candidates for aldermen or councillors.

for townships and villages;

(3) In villages and townships there shall be prepared one set of ballot papers containing the names of the candidates for reeve or reeve and deputy reeves and for councillors.

for controllers, etc.;

(4) There shall also be separate sets of ballot papers for controllers and public utility commissioners.

in towns, villages and townships.

(5) In a town the council may by by-law provide that the ballot papers for mayor, reeve and deputy-reeve shall be prepared in separate sets, and in a village or township the council may by by-law provide that the ballot papers for reeve, deputy reeve and councillors shall be prepared in separate sets.

When by-laws to be passed.

(6) A by-law for the purposes mentioned in subsection 5 shall be passed not later in the year than the 1st day of November and shall remain in force until repealed, and while in force the ballot papers (Form 3, 5 or 6) shall be varied accordingly. R.S.O. 1937, c. 266, s. 96.

95.—(1) The ballot papers shall be according to Form 3, ^{Form of ballot papers.} 5 or 6, and shall contain the names of the candidates arranged alphabetically in the order of their surnames, or if there are two or more candidates for the same office with the same surname, in the order of their given names.

(2) In cities having a population of not less than 200,000, ^{Form of ballot papers in certain cities.} the ballot papers shall be according to Form 4, and shall contain the names of the candidates arranged as set forth in subsection 1. R.S.O. 1937, c. 266, s. 97.

(3) In any municipality the form of any ballot paper ^{Power to vary.} may by by-law be varied by stating in respect of each office the number of candidates for such office for which the voters are entitled to vote. 1946, c. 60, s. 20.

POLLING PLACES

96. Before opening the poll, the clerk shall deliver to every ^{Clerk to furnish deputy returning officers with ballot papers, etc.} deputy returning officer the ballot papers for use in the polling subdivision for which he has been appointed, and shall furnish him with the materials necessary to enable voters to mark their ballot papers, and such materials shall be kept at the polling place by the deputy returning officer for the use of voters. R.S.O. 1937, c. 266, s. 98.

97. Every polling place shall be furnished with a compartment in which the voters can mark their ballot papers screened ^{Compartment for marking ballots.} from observation, and if it is not provided by the corporation the deputy returning officer shall furnish it, and the cost of it shall be repaid to him as provided by subsection 6 of section 92. R.S.O. 1937, c. 266, s. 99.

DIRECTIONS TO VOTERS

98. The clerk shall cause to be printed in conspicuous ^{Directions to voters to be printed.} type a sufficient number of the directions for the guidance of voters (Form 7), for the purposes of election, and shall deliver to every deputy returning officer as many of the printed directions, but not less than five, as the clerk may deem sufficient. R.S.O. 1937, c. 266, s. 100.

99. Every deputy returning officer, before opening the poll, or immediately after he has received the printed directions from the clerk, if the same were not received before opening the poll, shall cause them to be placarded outside the polling place, and in every compartment of the polling place, and shall see that they remain so placarded until the close of the polling. R.S.O. 1937, c. 266, s. 101; 1939, c. 30, s. 12. ^{Deputy returning officers to placard the directions.}

VOTERS' LISTS, POLL BOOKS

Proper voters' list to be used at an election. Rev. Stat., c. 414.

100. The proper list of voters to be used at an election shall be the first and second parts of the last voters' list certified under *The Voters' Lists Act*, with the supplementary list, if any, under section 102 or the list provided for by section 103. R.S.O. 1937, c. 266, s. 102; 1940, c. 18, s. 2.

For first election in new municipality.

101. For the first election in a new municipality for which there is no assessment roll, the clerk instead of a voters' list, shall provide every deputy returning officer with a poll book (Form 8), and the deputy returning officer or the poll clerk shall enter in it in the proper column the name of every person who tenders his vote, and, at the request of any candidate or voter, shall note opposite the name of such person the property in respect of which he claims to be entitled to vote. R.S.O. 1937, c. 266, s. 103.

Voters' lists on formation of new corporation, etc.

102.—(1) Where a district as defined by section 10 has been annexed to an urban municipality, or a town with additional territory erected into a city, or a village with additional territory into a town, or a new town or village is erected, and an election takes place before a voters' list including the names of the persons entitled to vote in such district, territory or for the new town or village is certified, the clerk of the municipality to which the same was added, and in the case of a new town or village, the returning officer shall prepare from the last certified voters' list of the municipality from which such district, territory, town or village was or became detached, a supplementary list of voters containing the names of and the other particulars relating to the persons who would have been entitled to vote in such district or territory if it had not been so detached. R.S.O. 1937, c. 266, s. 104 (1); 1940, c. 18, s. 3.

Clerk's duties as to supplementary lists.

(2) The supplementary list shall be signed by the clerk and attested by his declaration, and he shall deliver to every deputy returning officer a copy of so much of such list as relates to his polling subdivision. R.S.O. 1937, c. 266, s. 104 (2).

Voters' list, when clerk to prepare.

103. In a municipality for which there is an assessment roll, but for which there is no voters' list certified, the clerk shall, before the poll is opened, prepare and deliver to the deputy returning officer for every polling subdivision, a list signed by him and attested by his declaration, containing the names, arranged alphabetically, of all persons appearing by the then last revised assessment roll to be entitled to vote in that polling subdivision. R.S.O. 1937, c. 266, s. 105; 1940, c. 18, s. 4.

LIST OF DEFAULTERS IN PAYMENT OF TAXES

104.—(1) In municipalities, the councils of which have passed by-laws under paragraph 65 of subsection 1 of section 388, the treasurer of each local municipality, if the collector's roll has been returned to him or the collector, if the roll has not been so returned, shall, on or before the day fixed for nomination at the annual election, prepare and verify by his declaration and deliver to the clerk an alphabetical list of all persons entered on the first and second parts of the voters' list whose taxes in respect of land are overdue and unpaid.

Preparation of list of defaulters.

(2) Where a municipality is divided into polling subdivisions, such a defaulters' list shall be made for each polling subdivision.

List to be made for each polling subdivision.

(3) The person who prepares the defaulters' list shall furnish to all persons applying for the same, certified copies of it and of the declaration, in the same manner as and for the same compensation for which copies of the voters' list are to be furnished. R.S.O. 1937, c. 266, s. 106.

Certified copies to be furnished.

[NOTE.—See section 62 as to effect of default and payment of taxes before voting.]

105.—(1) The clerk, before the poll is opened, shall at a time and place appointed by him deliver to the deputy returning officer for every polling subdivision a list, either printed or written, or partly printed and partly written, certified to be a correct list of voters for the polling subdivision, together with a blank poll book (Form 8), and also a copy of the proper defaulters' list prepared under section 104 for the polling subdivision.

Delivery of copies of voters' list, poll book and defaulters' list to deputy returning officer.

(2) The list of voters may be prepared by the clerk or may be procured from the clerk of the peace, and in the latter case the clerk of the peace shall be entitled to six cents for every ten voters whose names are on the list. R.S.O. 1937, c. 266, s. 107.

Copies may be prepared by clerk of municipality or procured from clerk of peace.

CERTIFICATES AS TO THE ASSESSMENT ROLL

106.—(1) The clerk, before the poll is opened, shall deliver to every deputy returning officer a certificate (Form 9), of,

Clerk to give certificate of dates of final revision of assessment roll, etc.

(a) the date of the final revision of the assessment roll; and

(b) the last day for making complaints to the judge with respect to the voters' list to be used at the election.

(2) The clerk shall also give to any person applying for it a like certificate upon payment of 25 cents.

Fee for certificate.

Penalty for neglect.

(3) For every contravention of subsection 2, the clerk shall be guilty of an offence and liable to a penalty of \$200. R.S.O. 1937, c. 266, s. 108.

IN MUNICIPALITIES WITHOUT POLLING SUBDIVISIONS

In municipalities not divided into polling subdivisions, clerk to perform duties of deputy returning officers.

107. In municipalities not divided into polling subdivisions, the clerk shall perform the duties which in other cases are performed by deputy returning officers, and shall provide himself with the necessary ballot papers, the materials for marking ballot papers, the printed directions for the guidance of voters, copies of the voters' list, poll book and defaulters' list, and a certificate of the date of the final revision of the assessment roll, and the last day for making complaints to the judge with respect to the voters' list, and he shall perform the like duties with respect to the whole municipality as are imposed upon a deputy returning officer for a polling subdivision. R.S.O. 1937, c. 266, s. 109.

WHERE AND HOW OFTEN ELECTORS MAY VOTE

Number of votes which may be given by each elector.

108.—(1) An elector shall be entitled to vote,

- (a) once only for mayor, controller, reeve, first deputy reeve, second deputy reeve, third deputy reeve;
- (b) where the election is by general vote, once only for as many candidates for any office as there are offices to be filled, and once only for each of them.

Where election by general vote.

(2) Where the election is by general vote and an elector is qualified to vote in more than one ward or polling subdivision he shall vote only in that in which he resides if qualified to vote there, or if not qualified to vote there or if he is not a resident of the municipality, he may elect at which such wards or polling subdivisions he will vote and shall vote there only.

Where aldermen, etc., elected by wards.

(3) Where the aldermen or councillors are elected by wards an elector if qualified to vote therein may vote in each ward for as many candidates as there are offices to be filled and once only for each of them. R.S.O. 1937, c. 266, s. 110.

Certificate to entitle deputy returning officers, poll clerks, and agents to vote where stationed.

109.—(1) The clerk, at the request of an elector who has been appointed deputy returning officer, poll clerk, special constable or agent of a candidate, for any polling place other than the one at which he is entitled to vote, shall give to such elector a certificate that he is entitled to vote at the polling place where he is to be stationed during polling day, and the certificate shall state the property or other qualification in respect of which he is entitled to vote.

(2) On the production of the certificate such elector shall have the right to vote at the polling place at which he is stationed instead of at the polling place at which he would otherwise be entitled to vote, and the deputy returning officer shall attach the certificate to the voters' list. R.S.O. 1937, c. 266, s. 111 (1, 2). Right to vote on production of certificate.

(3) The certificate shall not entitle the elector to vote at such polling place unless he has been actually engaged as deputy returning officer, poll clerk, special constable or agent during polling day, or to vote for aldermen in cities, or for councillors in municipalities divided into wards, except in the ward where he would otherwise be entitled to vote. R.S.O. 1937, c. 266, s. 111 (3); 1938, c. 22, s. 4. Certificate only to entitle officials who act.

(4) If a deputy returning officer votes at the polling place for which he has been appointed, the poll clerk, or in his absence any elector entitled to be present, may administer to the deputy returning officer the oath required by law to be taken by voters. R.S.O. 1937, c. 266, s. 111 (4). Who to administer oath.

THE POLL

110.—(1) Subject to subsection 2 the poll shall be opened at every polling place at nine o'clock in the forenoon and shall be kept open until five o'clock in the afternoon of the same day. Time for opening and closing poll.

(2) The council of a municipality may by by-law passed at least 60 days before the day of nomination change the time for opening and closing the poll so that it will remain open for not less than eight consecutive hours between eight o'clock in the forenoon and nine o'clock in the afternoon and any such by-law shall remain in force from year to year until repealed. Idem.

(3) In the case of a by-election to fill a vacancy in the office of a member of a council a by-law for the purposes set out in subsection 2 may be passed at least six days before the day of nomination at such by-election. By-election.

(4) The votes shall be given by ballot. R.S.O. 1937, c. 266, s. 112. Vote by ballot.

111.—(1) In this section,

Interpretation.

- (a) "election" and "municipal elections" apply to and include an election or by-election for a council, board of education, school board, public utility commission or other board, commission or body the members of which are required to be elected by the electors of the municipality and shall also apply to and include

voting on any by-law and question submitted to the electors under the authority of this or any other general or special Act;

(b) "railway employees", in addition to the ordinary meaning, includes railway mail clerks employed by the Post Office Department of Canada and railway express clerks employed by an express company; R.S.O. 1937, c. 266, s. 113 (1), cls. (a, b).

Rev. Stat.,
cc. 322, 304.

(c) "bus and transport drivers" means persons who operate public vehicles as defined by *The Public Vehicles Act*, or public commercial vehicles as defined by *The Public Commercial Vehicles Act*. 1940, c. 18, s. 5 (1).

Application
of section.

(2) This section shall apply to any municipality the council of which passes a by-law declaring that it shall apply and any such by-law shall be in force from year to year until repealed.

Petition for
passing
by-law.

(3) If a petition, signed by at least 25 electors who are commercial travellers or railway employees, is presented to the council at least two weeks prior to the date of the nomination meeting asking that a by-law be passed declaring that this section shall apply, it shall be the duty of the council to pass a by-law in accordance with the petition.

To whom
section to
apply.

(4) This section shall apply only to railway employees and commercial travellers whose employment is such as to necessitate their absence from time to time from the municipality who are entitled to vote at municipal elections and who have reason to believe that they will be absent from the municipality on the day fixed for holding the poll at the election which is to be held.

Holding
of poll.

(5) For the purpose of enabling every railway employee and commercial traveller mentioned in subsection 4 to vote at the election which is to be held, a poll shall be held and be open from nine o'clock in the forenoon until five o'clock in the afternoon for such number of days not exceeding three, exclusive of Sunday, immediately preceding the day for holding the poll at the election, at the city, town, village or township hall or at some other convenient place chosen by the clerk, and notice of the time and place of holding such poll shall be given by the clerk by publication in a newspaper for such time as may be thought proper by the council.

Change of
polling
hours.

(6) The council of a municipality to which this section applies may by by-law passed at least 60 days before the day of nomination change the time for opening and closing the poll so that it will remain open for not less than eight

consecutive hours between nine o'clock in the forenoon and nine o'clock in the afternoon, and such by-law shall remain in force from year to year until repealed.

(7) Except as otherwise provided, all the provisions of this Act as to proceedings prior to the holding of the poll and at the poll, and after the closing of the poll, shall apply. Application of Act.

(8) In a municipality where the election is to be held by wards there shall be a separate poll book for each ward. Poll book for each ward.

(9) In a municipality where the election is by general vote the clerk or some other person appointed by him shall act as deputy returning officer, and in a municipality where the election is by wards the clerk may act as deputy returning officer for one or more wards or may appoint one or more persons to act as deputy returning officers for one or more wards, and may also appoint as many poll clerks as there are deputy returning officers. R.S.O. 1937, c. 266, s. 113 (2-9). Deputy returning officer.

(10) Every railway employee or commercial traveller offering himself as a voter at the polling place, before being allowed to vote, shall be required by the deputy returning officer to make the following declaration, which shall be kept by the deputy returning officer with the other records of the poll: Declaration of railway employee or commercial traveller.

I,.....
(Name) (Address)

declare that I am a.....
(railway employee or commercial traveller)

at present employed by.....

and that I expect in the course of my employment to be absent from this municipality on polling day, namely, the.....

day of....., 19.....

Dated at.....this.....

day of....., 19.....

Witness:.....
Name of Voter

.....
Deputy Returning Officer

1947, c. 69, s. 15 (2).

(11) Any person signing any declaration set out in this section knowing the statements therein are false shall be guilty of an offence and liable to a penalty of not less than \$25 and not more than \$100. Penalty for false statement.

(12) The poll clerk shall enter in the poll book in the column headed "Remarks" under the name of every elector who votes Record in poll book.

under this section, a note that he has signed the declaration above set out which is applicable to such elector.

Qualification
of voter.

(13) No person shall be entitled to vote unless his name appears on the last revised voters' list for the municipality.

Oath.

(14) The deputy returning officer and every candidate or his agent may require that the voter, before being handed a ballot, take the oath to be administered to a voter under this Act.

Fixing of
seals.

(15) At the close of the poll each day the deputy returning officer and any candidate or agent present who desires to do so, shall affix his seal to the ballot box in such a manner that it cannot be opened or any ballots be deposited in it without breaking the seals.

Opening
ballot box
and counting
ballots.

(16) On the day fixed for holding the poll at the election the deputy returning officer at the polling place and in the presence of such candidates and their agents as may be present, shall at the hour fixed for the closing of the poll, open the ballot box, count the votes and perform all the other duties required of a deputy returning officer by this Act with respect to the votes polled under this section. R.S.O. 1937, c. 266, s. 113 (12-17).

Bus and
transport
drivers.

(17) The provisions of this section shall extend and apply *mutatis mutandis* to bus and transport drivers to the same extent as if such drivers were railway employees. 1940, c. 18, s. 5 (2).

Where mem-
bers of
army, navy
or air forces
may vote
at advance
poll.

(18) Notwithstanding the provisions of this section, any person who is a member of the naval, military or air forces of Canada and who is entitled to vote at municipal elections in a municipality to which this section applies and who has reason to believe that he will be absent from the municipality on the day fixed for holding the poll shall be entitled to vote at the poll under this section upon making the following declaration which shall be kept by the deputy returning officer with the other records of the poll:

I,
 (name) (address in the municipality) (addition)
declare that I am a member of the naval, military or air forces of Canada,
that I am entitled to vote at this municipal election and that I expect in
the course of my duty to be absent from this municipality on the day
fixed for holding the poll, namely, the day of
....., 19.....

Dated at....., this..... day of....., 19.....

Witness.....
 D.R.O. Name of Voter

112.—(1) Wherever in any municipality there is situate a home, hospital or other institution for the reception, treatment or vocational training of disabled nursing sisters, officers and men who were on active service with the naval or military forces of Great Britain or her allies, the council may by by-law declare any such home, hospital or institution to be a polling place for the purpose of elections and a poll shall be held in each such place and all patients therein who are electors of the municipality shall be entitled to vote at such poll.

Special
poll for
soldiers'
hospitals.

(2) When any such patient is bed-ridden or unable to walk it shall be lawful for the deputy returning officer and poll clerk to attend upon such patient for the purpose of receiving his ballot.

Ballot in
certain
cases.

(3) Subsections 7, 8, 9, 13 and 14 of section 111 shall apply and the clerk of the municipality may cause all things to be made, done and provided for the purpose of holding the said poll and ensuring the proper conduct of the election thereat in compliance as nearly as may be with the provisions of this Act respecting elections. R.S.O. 1937, c. 266, s. 114.

Application
of s. 111.

113. The deputy returning officer shall, immediately before opening the poll, show the ballot box to such persons as are present in the polling place, so that they may see if it is empty, and he shall then lock the box and place his seal upon it in such a manner as to prevent its being opened without breaking the seal, and he shall keep the box on a desk, counter or table or otherwise so that it is raised above the floor in full view of all present, and shall keep the box so locked and sealed. R.S.O. 1937, c. 266, s. 115.

Deputy
returning
officer to
show box
empty to
persons
present and
then lock
and seal it.

114.—(1) Where a person tenders his vote, the deputy returning officer shall proceed as follows:

Proceedings
by deputy
returning
officer on
tender of
vote.

(a) Except where there is no voters' list he shall ascertain that the name of such person or a name apparently intended for it is entered on the voters' list for the polling subdivision and is not entered upon the defaulters' list.

Name.

(b) He shall record, or cause to be recorded by the poll clerk, in the proper columns of the poll book the name, qualification, residence and occupation of such person.

Recording.

(c) Where the vote is objected to by any candidate or his agent, the deputy returning officer shall enter or cause to be entered the objection in the poll book, by writing opposite the name of such person in the proper column the words "*Objected to*", and the name

Objection.

of the candidate by or on behalf of whom the objection was made.

Oath.

- (d) If such person takes the prescribed oath, the deputy returning officer shall enter or cause to be entered opposite such person's name, in the proper column of the poll book the word "*Sworn*", or "*Affirmed*", according to the fact.

Refusal to take the oath.

- (e) Where such person has been required to take the oath and refuses to do so, the deputy returning officer shall enter or cause to be entered opposite the name of such person, in the proper column of the poll book, the words, "*Refused to be sworn*", or "*Refused to Affirm*", according to the fact.

Deputy returning officer to initial ballot paper and mark voters' list.

- (f) After the proper entries have been made in the poll book the deputy returning officer shall place or cause to be placed a check or mark opposite the name of the voter in the voters' list to indicate that he has voted, and shall then put his initials on the back of the ballot paper.

Delivery of to voter.

- (g) The ballot paper shall then be delivered to such person.

Deputy returning officer to explain mode of voting.

- (h) The deputy returning officer may, and upon request shall, either personally or through the poll clerk explain to the voter, as concisely as possible, the mode of voting.

Penalty.

- (2) The vote of a person who has refused to take the oath shall not be received, and if the deputy returning officer receives such vote, or causes it to be received, he shall be guilty of an offence and liable to a penalty of \$200. R.S.O. 1937, c. 266, s. 116.

Oath, etc., of person claiming to vote.

- 115.**—(1) The only oath to be required of a person claiming to vote shall be according to Form 11.

Voter may select any form of oath.

- (2) The voter shall be entitled to select any one of the forms of oath, whatever may be the description either in the voters' list or assessment roll of the qualification or character in which he is entered upon it.

When and how oaths are to be administered.

- (3) The oath may be administered by the returning officer or deputy returning officer if he thinks fit, and shall be administered at the request of any candidate or his agent, and no inquiry shall be made of a voter except with respect to the matters required to be stated in the oath or to ascertain if he is the person intended to be designated on the voters' list, or the assessment roll, as the case may be. R.S.O. 1937, c. 266, s. 117.

116. The deputy returning officer or the poll clerk shall place his initials in the appropriate column of the poll book opposite the name of every person who has voted for a candidate for the office named in that column. R.S.O. 1937, c. 266, s. 118.

Deputy returning officer to initial names of persons voting.

117.—(1) Upon receiving the ballot paper the person receiving it shall,

Marking ballot paper.

- (a) forthwith proceed into the compartment provided for the purpose and shall then and there mark his ballot paper by placing a cross, on the right hand side, opposite the name of a candidate for whom he desires to vote, or at any other place within the division which contains the name of such candidate;
- (b) then fold the ballot paper so as to conceal the names of the candidates, and the marks upon the face of it, and to expose the initials of the deputy returning officer;
- (c) then leave the compartment without delay, and without showing the face of the ballot paper to anyone, or so displaying it as to make known how he has marked it; and
- (d) then deliver the ballot paper so folded to the deputy returning officer.

(2) The deputy returning officer, without unfolding the ballot paper, or in any way disclosing the names of the candidates, or the marks made by the voter, shall verify his own initials, and at once deposit the ballot paper in the ballot box in the presence of all persons entitled to be present and then present in the polling place, and the voter shall forthwith leave the polling place. R.S.O. 1937, c. 266, s. 119.

Duties of D.R.O. on receipt of ballot.

118. While a voter is in a compartment for the purpose of marking his ballot paper, no other person shall be allowed to enter the compartment or to be in a position from which he can see how the voter marks his ballot paper. R.S.O. 1937, c. 266, s. 120.

Exclusion from ballot-ing compartment.

119. A person who has received a ballot paper shall not take, and the deputy returning officer may prevent him from taking it out of the polling place and if he leaves the polling place without delivering it to the deputy returning officer in the prescribed manner or returns the ballot paper declining to vote he shall thereby forfeit his right to vote and the deputy returning officer shall make an entry in the poll book, in the column for "Remarks", to the effect that such person

Voter not to take his ballot paper from polling place.

received a ballot paper, but took it out of the polling place, or returned it, declining to vote, as the case may be, and in the latter case the deputy returning officer shall immediately write the word "*Declined*" upon the ballot paper and shall preserve it. R.S.O. 1937, c. 266, s. 121.

Proceedings
in case of
incapacity
to mark
ballot
paper.

120.—(1) The deputy returning officer on the application of a voter who is incapacitated by physical cause other than blindness from marking his ballot paper, or who makes a declaration (Form 12) that he is unable to read, or where the voting is on a Saturday that he is of Jewish persuasion and objects on religious grounds to mark his ballot paper in the manner prescribed by section 117, shall,

(a) in the presence of the poll clerk and the agents of the candidates, cause the vote of such person to be marked on the ballot paper in the manner directed by him, and shall place the ballot paper in the ballot box;

(b) make an entry opposite the name of the voter in the proper column of the poll book that his vote was marked in pursuance of this section, and of the reason why it was so marked.

Oral de-
claration.

(2) Where the voter objects on religious grounds to mark his ballot paper, the declaration may be made orally.

Voter in-
capacitated
by blindness,
etc.

(3) The deputy returning officer on the application of any voter who is unable to read or is incapacitated by blindness or other physical cause from voting in the manner prescribed by this Act, shall require the voter making such application to make a declaration (Form 12) of his incapacity to vote without assistance, and shall thereafter assist such voter by marking his ballot paper in the manner directed by such voter in the presence of the sworn agents of the candidates, or of the sworn electors representing the candidates in the polling place and of no other person, and place such ballot in the ballot box.

Blind
voter's ballot
marked by
friend.

(4) The deputy returning officer shall either deal with a blind voter in the same manner as with an illiterate or otherwise incapacitated voter, or at the request of any blind voter who has made the declaration (Form 12), and is accompanied by a friend, shall permit such friend to accompany the blind voter into the voting compartment and mark the voter's ballot for him.

Oath of
friend.

(5) Any friend who is permitted to mark the ballot of a blind voter as aforesaid, shall first be required to make a declaration (Form 13), that he will keep secret the name of the candidate for whom the ballot of such blind voter is marked

by him, and no person shall at any polling place be allowed to act as the friend of more than one blind voter.

(6) The deputy returning officer shall enter in the column for remarks in the poll book opposite the voter's name, the reason why such ballot paper was marked by him or by a friend of the voter. R.S.O. 1937, c. 266, s. 122. Reasons to be noted.

(7) Where a voter has made the declaration (Form 12) of his inability to read, the deputy returning officer shall complete and subscribe to the certificate (Form 14). 1950, c. 46, s. 7. Certificate where voter unable to read.

121. A voter who has inadvertently dealt with his ballot paper in such a manner that it cannot be conveniently used, upon returning it to the deputy returning officer shall be entitled to obtain another ballot paper, and the deputy returning officer shall immediately write the word "*Cancelled*" upon the first-mentioned ballot paper, and preserve it. R.S.O. 1937, c. 266, s. 123. Proceedings in case ballot paper cannot be used.

122. A person who applies for a ballot paper shall be deemed to have tendered his vote, and a person whose ballot paper has been deposited in the ballot box, or who has delivered it to the deputy returning officer or poll clerk, for the purpose of having it deposited in the ballot box, shall be deemed to have voted. R.S.O. 1937, c. 266, s. 124. What shall be deemed a tender of a vote and a voting.

123. The deputy returning officer, the poll clerk, the election assistant, the constable or constables, any candidate, or in his absence, his agent, and no others shall be permitted to remain in the polling place during the time the poll is open or to be in the polling place at the counting of the votes. 1946, c. 60, s. 21. Who may be in polling place.

124. A candidate shall be entitled to one agent only in a polling place at any one time. 1946, c. 60, s. 22. Agents.

125.—(1) No person on the day of the polling shall use or deliver to any other person any card, ticket, leaflet, book, circular or writing soliciting votes for or against any candidate, or by-law, or for an affirmative or negative answer to any question, or having upon it the name of any candidate. Use or delivery of election cards, etc.

(2) Every person who contravenes subsection 1 shall be guilty of an offence and liable to a penalty of not more than \$20. R.S.O. 1937, c. 266, s. 127. Penalty.

126. Every person qualified to vote thereat who is inside the polling place at the time fixed for closing the poll, shall be entitled to vote. 1946, c. 60, s. 23. Persons inside polling place.

PROCEEDINGS AFTER THE CLOSE OF THE POLL

Counting
the votes.

127. Immediately after the close of the poll, the deputy returning officer shall first place all the cancelled and declined ballot papers in separate packets and seal them up, and shall then count the number of voters whose names appear by the poll book to have voted, and cause a certificate, in the following form: "*I certify that the number of voters who voted at the election in this polling place is (stating the number in words) and that was the last person who voted at this polling place*", to be entered in the poll book on the line immediately below the name of the voter who voted last, and the certificate shall be signed by the deputy returning officer, the poll clerk, and any candidate or agent present who desires to sign it; then, in their presence and in full view he shall open the ballot box and count the number of votes for each candidate, giving full opportunity to those present to examine each ballot paper. R.S.O. 1937, c. 266, s. 128.

What votes
to be
rejected.

128.—(1) In counting the votes the deputy returning officer shall reject all ballot papers,

- (a) which have not been supplied by him; or
- (b) by which votes have been given for more candidates than are to be elected; or
- (c) upon which there is any writing or mark by which the voter can be identified, or which has been so torn, defaced or otherwise dealt with by the voter that he can thereby be identified,

but no word, letter or marks written or made or omitted to be written or made by the deputy returning officer on a ballot paper shall avoid it or warrant its rejection. R.S.O. 1937, c. 266, s. 129.

Counting
votes where
ballot paper
relates to
two or more
offices.

(2) Where on a ballot paper which contains the names of candidates for more than one office, votes are given for more candidates for any office than are to be elected, the same shall be void as regards all the candidates for such office but shall be good as regards the votes for any other offices in respect of which the voter has not voted for more candidates than are to be elected. 1949, c. 61, s. 4.

Objections
to be noted
and decided.

129.—(1) The deputy returning officer shall make a note of every objection taken to a ballot paper, by a candidate or his agent, and shall decide the objection subject to review on recount or in a proceeding questioning the validity of the election.

Numbering
objections.

(2) Each objection shall be numbered, and a corresponding number shall be placed on the back of the ballot paper and

initialled by the deputy returning officer. R.S.O. 1937, c. 266, s. 130.

130.—(1) All the ballot papers except those rejected shall be counted, and an account shall be kept of the number of votes given and allowed for each candidate, and all the ballot papers shall be put into separate packets as follows:

Procedure on counting ballot papers and votes and placing ballot papers into packets.

- (a) all the used ballot papers which have not been objected to and have been counted;
- (b) all the used ballot papers which have been objected to, but which have been counted;
- (c) all the rejected ballot papers;
- (d) all the cancelled ballot papers;
- (e) all the ballot papers used but unmarked;
- (f) all the declined ballot papers;
- (g) all the unused ballot papers.

(2) Every packet shall be endorsed so as to indicate its contents, and shall be sealed by the deputy returning officer, and any candidate or agent present may write his name on the packet and may affix to it his seal. R.S.O. 1937, c. 266, s. 131.

Each packet to be endorsed and sealed.

131.—(1) The deputy returning officer shall make out a statement in duplicate of,

Statement of result to be made by deputy returning officer.

- (a) the number of ballot papers received from the clerk;
- (b) the number of votes given for each candidate and the rejected ballot papers;
- (c) the used ballot papers which have not been objected to and have been counted;
- (d) the ballot papers which have been objected to, but which have been counted by the deputy returning officer;
- (e) the rejected ballot papers;
- (f) the cancelled ballot papers;
- (g) the ballot papers used but unmarked;
- (h) the declined ballot papers;
- (i) the unused ballot papers;
- (j) the number of voters whose ballot papers have been marked by the deputy returning officer under section 120.

Disposal of
statement.

(2) One statement shall be attached to the poll book, and the other shall be enclosed in a special packet and delivered to the clerk.

Signing of
statement.

(3) The statement shall be signed by the deputy returning officer and the poll clerk and such of the candidates or their agents as are present and desire to sign it.

Certificate
of result
of poll.

(4) The deputy returning officer shall deliver to such of the candidates or their agents as are present, if requested to do so, a certificate of the number of ballot papers counted for each candidate, and of the rejected ballot papers. R.S.O. 1937, c. 266, s. 132.

Oath of
poll clerk.

132. The poll clerk, immediately after the completion of the counting of the votes, shall take and subscribe an oath similar to that required by subsection 3 of section 134 to be taken by the deputy returning officer. R.S.O. 1937, c. 266, s. 133.

Poll book,
etc., to be
placed in
ballot box.

133. The poll book, the voters' list, the packets containing the ballot papers, and all other documents which served at the election shall be placed in the ballot box, except,

- (a) the duplicate statement;
- (b) the oath of the deputy returning officer, Form 16;
- (c) the oath of the poll clerk, Form 16 or similar oath; and
- (d) the oath of the person, if any, chosen to deliver the ballot box to the clerk, Form 15. 1950, c. 46, s. 8.

Delivery of
ballot box
to clerk.

134.—(1) The deputy returning officer shall then immediately lock and seal the box, and any candidate or agent present may also affix to it his seal and the deputy returning officer shall then forthwith deliver it personally to the clerk, or if he is unable to do so owing to illness or other imperative cause, he shall deliver it to the poll clerk, or where the poll clerk is unable to act, to some person chosen by the deputy returning officer for the purpose of delivering it, and shall on it or on a ticket attached to it write the name of the person to whom the ballot box has been delivered, and shall take a receipt for it, and the poll clerk or person so chosen shall forthwith deliver the ballot box personally to the clerk and shall take and subscribe before him, the oath (Form 15).

Return of
ballot boxes,
etc., in
cities and
towns.

(2) In cities and towns, the deputy returning officer, or in case of his inability, as mentioned in subsection 1, the poll clerk or the person chosen, shall proceed directly from the polling place to the office of the clerk with the ballot box, and

there personally on the same day, as soon as possible after leaving the polling place, deliver it to the clerk, and the poll clerk or the person chosen shall take and subscribe before him the oath (Form 15), and the clerk shall remain in his office on the evening of the polling day until all the ballot boxes have been returned to him.

(3) Forthwith thereafter the deputy returning officer shall take and subscribe the oath (Form 16), and shall personally deliver it or transmit it by registered post to the clerk. R.S.O. 1937, c. 266, s. 135. Oath of D.R.O.

135. The clerk, upon the receipt of a ballot box, shall take every precaution for its safe keeping and for preventing any other person from having access to it, and shall immediately on the receipt of it seal it with his own seal in such a way that it cannot be opened without his seal being broken, and that any other seals affixed to it are not effaced or covered. R.S.O. 1937, c. 266, s. 136. Duties of clerk as to ballot box.

136. A deputy returning officer in a city or town shall not under any circumstances take, or allow to be taken, the ballot box to his home, house, office or place of business, or to any house or place except the office of the clerk. R.S.O. 1937, c. 266, s. 137. D.R.O. not to take ballot box to his home.

137. Where the holding of the election has been interrupted, as mentioned in section 140, the deputy returning officer shall delay making his return to the clerk until the polling has taken place. R.S.O. 1937, c. 266, s. 138. Return by D.R.O. when election interrupted.

138. The clerk, after he has received the ballot papers and statements of the number of votes given at each polling place, without opening any of the sealed packets of ballot papers, shall cast up from the statements the number of votes for each candidate and at the town hall, or if there is no town hall, at some other public place, at noon on the second day following the day on which the polling is held, shall publicly declare to be elected the candidate or candidates having the highest number of votes, and he shall also put up in some conspicuous place a statement under his hand showing the number of votes for each candidate. R.S.O. 1937, c. 266, s. 139. Clerk to cast up votes and declare what candidates elected.

139.—(1) If, upon the casting up of the votes two or more candidates have an equal number of votes where both or all of such candidates cannot be elected, the clerk shall publicly declare the result and put up in a conspicuous place a statement under his hand showing the number of votes for each candidate Tie vote, recount necessary.

and shall forthwith notify a judge of the county or district court of the county or district in which the municipality is situate of the result and the judge shall thereupon appoint a time and place to recount the votes cast for such candidates.

Procedure. (2) In such proceedings the provisions of sections 141 and 142 shall apply *mutatis mutandis*.

When clerk to have casting vote. (3) If the certificate of the result of the recount shows that the candidates still have an equal number of votes, the clerk shall forthwith after receiving the certificate give a vote for one or more of the candidates so as to decide the election. 1947, c. 69, s. 16.

ELECTION NOT HELD AT PROPER TIME, ETC.

Election not commenced, or interrupted by reason of riot, etc., to be resumed.

140. If, by reason of a riot or other emergency, an election, or the voting at a polling place, is not commenced on the proper day, or is interrupted after being commenced and before the lawful closing thereof, the returning officer or deputy returning officer, as the case may be, shall hold or resume the election on the following day at the hour of nine o'clock in the forenoon, and continue the same from day to day until a fair opportunity for nominating candidates has been given or, in the case of polling, until the poll has been opened without interruption and with free access to voters for eight hours in all. R.S.O. 1937, c. 266, s. 141.

[As to postponement of an election on account of an epidemic or contagious disease, see *The Public Health Act, Rev. Stat., c. 306.*]

RECOUNT

Application for recount or re-addition.

141.—(1) If, within 14 days after the declaration by the clerk of the result of the election, upon the application of a candidate or voter it is made to appear by affidavit to a judge of the county or district court of the county or district in which the municipality is situate, that a deputy returning officer, in counting the votes has improperly counted or rejected any ballot paper, or made an incorrect statement of the number of ballots cast for any candidate, or has improperly added up the votes, and if within that time the applicant has given security for the costs in connection with the recount or final addition of the candidate declared elected of such nature and in such amount as may be fixed by the judge, or if at any time within four weeks after such declaration in a city having a population of not less than 100,000, the council has by resolution declared that a recount or readdition is desirable in the public interest, the judge shall appoint a time and place to recount or readd the votes cast at the election.

(2) In all cases of a recount or readdition of the ballots cast for candidates elected by general vote in a city having a population of not less than 100,000, the judge may order that the recount or readdition shall be conducted separately in each ward of such city, and for that purpose may appoint for any ward as his deputy, another judge or a barrister of at least 10 years standing at the bar of Ontario to recount or read the votes cast at the election in such ward and a time and place for such recount or readdition to be held, and every such deputy shall for all the purposes of the recount or readdition and in respect to the ward for which he is appointed, have the powers and perform the duties of the judge as hereinafter set out in this section.

Deputies in wards of cities of 100,000 population or over.

(3) At least two days notice in writing of the time and place appointed shall be given to the candidates and to the clerk, and the clerk or an assistant clerk appointed for the purpose shall attend the recount or readdition with the ballot boxes and all documents relating to the election.

Notice of time and place for recount or readdition.

(4) The judge, the clerk, the assistant clerk and each candidate and his agent appointed to attend the recount or readdition, but no other person, except with the sanction of the judge, shall be entitled to be present at the recount.

Who may attend.

(5) The recount shall be of the ballots cast respectively for the candidate declared elected when one only is to be elected or in other cases of the candidate who received the lowest number of votes of those declared elected by the clerk and for the defeated candidate who received the highest number of votes for the same office unless any other candidate in writing requires the ballots cast for him to be recounted or read.

Which ballots to be read or recounted.

(6) At the time and place appointed, and in the presence of such of the persons entitled to be present as may attend, the judge shall make such final addition from the statements contained in the ballot boxes returned by the deputy returning officers, or recount all the ballot papers received by the clerk from the several deputy returning officers and the number of votes counted at the election and shall for the purpose of the recount open the sealed packets containing the used ballot papers which were not objected to and were counted, the ballot papers which were objected to but which were counted, the rejected ballot papers, the cancelled ballot papers, the ballot papers which were used but were unmarked, the declined ballot papers and the unused ballot papers.

Making re-addition or recount.

(7) The judge shall, as far as practicable, proceed continuously, allowing only time for refreshment and excluding, except so far as he and the persons present agree, the hours between six o'clock in the afternoon and nine o'clock in the

Proceedings to be continuous.

succeeding forenoon, and during the excluded time the judge shall place the ballot papers and other documents relating to the election close under his own seal and the seal of such of the persons present as desire to affix their seals, and shall otherwise take all necessary precautions for their security.

Procedure
as at close
of poll.

(8) Subject to subsection 9, the judge shall proceed according to the provisions for the counting of the ballot papers and the vote at the close of the poll by a deputy returning officer, and shall verify and correct the statement of the poll.

Evidence
may be
taken.

(9) If for any reason it appears desirable to do so, the judge upon the application of any party to the proceeding may hear such evidence as he may deem necessary for the purpose of making a full and proper recount of the ballot papers.

Judge's
certificate
of result.

(10) Upon the completion of the recount the judge shall seal up all the ballot papers in their separate packets and upon the completion of a readdition he shall seal up the original statements in their respective packets, and shall forthwith certify the result of the recount or readdition to the clerk.

Clerk's
declaration
of result.

(11) Upon the result of the recount or readdition being certified to him, the clerk shall declare elected the candidate so certified as having the highest number of votes, and such declaration shall be deemed for all purposes to have been substituted for the prior declaration made under section 138, if it is different from such prior declaration.

Other
remedies not
affected.

(12) Nothing in this section shall affect any remedy which any person may have under the provisions hereinafter contained by proceedings in the nature of *quo warranto* or otherwise. R.S.O. 1937, c. 266, s. 142.

Costs.

142.—(1) The costs of the recount shall be in the discretion of the judge who may order by whom, to whom and in what manner the costs shall be paid.

Amount or
scale of
costs.

(2) The judge may in his discretion award costs of the recount or readdition to or against any candidate and may fix the amount thereof or order that they be taxed by the clerk of the district or county court on a scale following as nearly as may be the tariff of costs of the county court.

Deposit,
disposal of.

(3) Where costs are directed to be paid by the applicant, the money deposited as security for costs shall be paid out to the party entitled to such costs, so far as necessary.

Recovery
of costs.

(4) Payment of the costs may be enforced by execution to be issued from any county or district court, upon filing therein the order of the judge and a certificate showing the amount

at which the costs were taxed and an affidavit of the non-payment of them.

(5) The judge shall be entitled to receive from the municipality the expenses necessarily incurred in attending at the place designated by him to recount the votes. R.S.O. 1937, c. 266, s. 143. Expenses of judge attending at recount.

SECRECY OF PROCEEDINGS

143.—(1) Every person in attendance at a polling place or at the counting of the votes shall maintain and aid in maintaining the secrecy of the voting. Maintaining secrecy of proceedings.

(2) No person shall interfere or attempt to interfere with a voter when marking his ballot paper, or obtain or attempt to obtain at the polling place information as to how a voter is about to vote or has voted. Interference with voters.

(3) No person shall communicate any information obtained at a polling place as to how a voter at such polling place is about to vote or has voted. R.S.O. 1937, c. 266, s. 144. Communicating information as to how voter has voted.

144. No person shall, directly or indirectly, induce or attempt to induce a voter to show his ballot paper after he has marked it, so as to make known to any person how he has voted. R.S.O. 1937, c. 266, s. 145. Inducing voter to display ballot after marking.

145. Subject to section 120, a voter shall not show his ballot paper, when marked, to any person so as to make known how he voted. R.S.O. 1937, c. 266, s. 146. Voter not to display marked ballot.

146. Every returning officer and every officer, clerk, constable, agent and other person authorized to attend at a polling place, or at the counting of the votes, shall, before entering on his duties, take the oath of secrecy (Form 17). R.S.O. 1937, c. 266, s. 147. Oath of secrecy.

147.—(1) If a returning officer, deputy returning officer or poll clerk becomes aware, or has reason to believe or suspect, that any provision of the law as to secrecy has been violated, he shall forthwith communicate the particulars to the Crown attorney. Proceedings where officers aware of violation of secrecy.

(2) The Crown attorney on receiving such information from any person, shall forthwith inquire into the matter and, if proper, prosecute the offender. R.S.O. 1937, c. 266, s. 148. Crown attorney to prosecute.

148. No person who has voted at an election shall, in any legal proceeding to question the election or return, be required No one compellable to disclose his vote.

to state how or for whom he has voted. R.S.O. 1937, c. 266, s. 149.

GENERAL

Returning officers, etc., wilfully falsifying or altering list of voters to incur penalty.

149. Every returning officer, deputy returning officer, or other person whose duty it is to deliver poll books or who has the custody of a voters' list or poll book, who wilfully makes any alteration or insertion in or wilfully omits anything from or in any way wilfully falsifies such voters' list or poll book, shall be guilty of an offence and liable to a penalty of \$2,000, and shall also be liable to imprisonment for a term of not more than one year. R.S.O. 1937, c. 266, s. 150.

Offences relating to ballot papers.

150. Every person who,

- (a) fraudulently alters, defaces or destroys a ballot paper or the initials of the deputy returning officer thereon; or
- (b) without due authority supplies a ballot paper to any person; or
- (c) fraudulently places in a ballot box a paper other than the ballot paper which he is authorized by law to place therein; or
- (d) fraudulently delivers to the deputy returning officer to be placed in the ballot box any other paper than the ballot paper given to him by the deputy returning officer; or
- (e) fraudulently takes a ballot paper out of the polling place; or
- (f) without authority destroys, takes, opens or otherwise interferes with a ballot box or book or packet of ballot papers or a ballot paper or ballot in use or used for the purposes of an election; or
- (g) applies for a ballot paper in the name of another person whether the name be that of a person living or dead or of a fictitious person, or having voted applies at the same election for a ballot paper in his own name or votes oftener than he is entitled to; or
- (h) being a deputy returning officer, contravenes section 136, or fraudulently puts his initials on the back of any paper purporting to be or capable of being used as a ballot paper at an election; or
- (i) with fraudulent intent, prints any ballot paper or what purports to be or is capable of being used as a ballot paper at an election; or

- (j) being employed to print the ballot papers for an election, with fraudulent intent prints more ballot papers than he is authorized to print; or
- (k) attempts to commit or aids, abets, counsels or procures the commission of any offence mentioned in this section,

shall be guilty of an offence and if a returning officer, deputy returning officer or other officer engaged in the election, shall be liable to imprisonment for a term of not more than two years, and, in the case of any other person, to imprisonment for a term of not more than six months. R.S.O. 1937, c. 266, s. 151.

151.—(1) Every person who wilfully and maliciously destroys, injures or obliterates, or causes to be destroyed, injured or obliterated, a warrant for holding an election, a poll book, voters' list, certificate, affidavit or other document or paper made, prepared or drawn according to or for the purpose of meeting the requirements of this Act or any of them, shall incur a penalty of \$2,000, and shall also be liable to imprisonment for a term of not more than one year.

Persons unlawfully destroying, etc., documents relating to elections, etc.

(2) Every person who aids, abets, counsels or procures the commission of a violation of subsection 1 shall incur the like penalty and be subject to the like imprisonment.

Abettors punishable.

(3) The pecuniary penalty shall be recoverable by action at the suit of His Majesty, and the imprisonment may be directed by the court in which the action is brought. R.S.O. 1937, c. 266, s. 152.

Recovery of penalty.

152.—(1) Every deputy returning officer who wilfully omits to put his initials on the back of a ballot paper in use for the purposes of an election, shall be guilty of an offence and liable to a penalty of \$10 in respect of every such ballot paper.

Penalty for D.R.O. omitting to initial ballots.

(2) A deputy returning officer or poll clerk who refuses or neglects to perform any of the duties imposed upon him by sections 127 to 135 shall be guilty of an offence and, for each refusal or neglect, shall be liable to a penalty of \$200. R.S.O. 1937, c. 266, s. 153.

D.R.O. or poll clerk neglecting duties.

153. Every deputy returning officer or poll clerk who wilfully miscounts the ballots or otherwise makes up a false statement of the poll shall be guilty of an offence and liable to a penalty of \$200. R.S.O. 1937, c. 266, s. 154.

Wilfully miscounting ballots, etc.

154. Every person who acts in contravention of sections 143 to 145 shall be guilty of an offence and liable to imprisonment.

Penalty for violating secrecy.

ment for a term of not more than six months. R.S.O. 1937, c. 266, s. 155.

Money
penalty for
offences.

155. Every officer engaged in the election who is guilty of a wilful act or omission in contravention of this Act shall in addition to any other penalty or liability to which he may be subject, forfeit to any person who may be aggrieved thereby the sum of \$400. R.S.O. 1937, c. 266, s. 156.

MISCELLANEOUS PROVISIONS

Candidate
may under-
take duties
of an agent.

156. A candidate may undertake the duties which his agent might undertake, or he may assist his agent in the performance of such duties, and may be present at any place at which his agent is authorized to be present, but no candidate shall be present at the marking of a ballot paper under section 120. R.S.O. 1937, c. 266, s. 157.

Who may
administer
oaths re
election.

157. Except where otherwise provided any oath required to be taken in connection with an election may be taken before the clerk of the municipality, a returning officer or a deputy returning officer, as well as before any other person by whom under *The Interpretation Act* an oath may be administered. R.S.O. 1937, c. 266, s. 158.

Rev. Stat.,
c. 184.

Ballot
papers, how
disposed of.

158.—(1) The clerk shall retain in his possession for six weeks all the ballot papers, and, unless otherwise directed by an order of a judge or officer having jurisdiction to inquire as to the validity of the election, shall then destroy them in the presence of two witnesses, who shall make a declaration that they witnessed the destruction of them.

Declaration.

(2) The declaration shall be made before the head of the municipality and filed in the office of the clerk. R.S.O. 1937, c. 266, s. 159.

Ballot
papers to
be inspected
only by
order of a
judge.

159.—(1) No person shall be allowed to inspect any ballot paper in the custody of the clerk except under the order of a judge or an officer having jurisdiction to inquire as to the validity of the election.

Grounds for
granting
order.

(2) The order may be made on the judge or officer being satisfied by affidavit or other evidence that the inspection is required for the purpose of maintaining a prosecution for an offence in relation to ballot papers, or of taking proceedings for contesting the election or return.

Order may
be subject to
conditions.

(3) The order may be made subject to such conditions as the judge or officer may deem proper. R.S.O. 1937, c. 266, s. 160.

160. Where an order is made for the production by the clerk of any document in his possession relating to an election, the production of it by him in such manner as may be directed by the order shall be evidence that the document relates to the election, and any endorsement appearing on any packet of ballot papers so produced shall be evidence that the contents are what they are stated to be by the endorsement. R.S.O. 1937, c. 266, s. 161.

Production of documents and endorsements on ballot papers evidence for certain purposes.

161. Where in this Part expressions are used, requiring or authorizing any act or thing to be done, or implying that any act or thing is to be done in the presence of the agents of the candidate, they shall be deemed to refer to the presence of such agents of the candidates as are authorized to attend, and as have in fact attended, at the time and place where such act or thing is being done, and the non-attendance of an agent at such time and place, if it is otherwise duly done, shall not invalidate the act or thing done. R.S.O. 1937, c. 266, s. 162.

Expressions referring to agents.

Non-attendance of agents.

162. No election shall be or be declared to be invalid,

When election not to be declared invalid.

- (a) for non-compliance with the provisions of this Act as to the taking of the poll or anything preliminary thereto or as to the counting of the votes; or
- (b) by reason of mistake in the use of the prescribed forms; or
- (c) by reason of any mistake or irregularity in the proceedings at or in relation to the election,

if it appears to the tribunal by which the validity of the election or any proceeding in relation to it is to be determined that the election was conducted in accordance with the principles laid down in this Act, and it does not appear that such non-compliance, mistake or irregularity affected the result of the election. R.S.O. 1937, c. 266, s. 163.

163. The reasonable expenses incurred by a clerk or any other officer for printing, providing ballot boxes, ballot papers, materials for marking ballot papers, and balloting compartments, and for the transmission of packets, and reasonable fees and allowances for services rendered under this Part, shall be paid to the clerk by the treasurer, and shall be paid by the clerk to the persons entitled thereto. R.S.O. 1937, c. 266, s. 164.

Expenses incurred by officers to be repaid to them.

VACANCIES IN COUNCIL

Seat to become vacant by crime, insolvency, absence, etc.

164. The seat of a member of a council shall become vacant if he,

- (a) is undergoing imprisonment under sentence for a criminal offence; or
- (b) becomes bankrupt or insolvent within the meaning of any bankruptcy or insolvency Act in force in Ontario; or
- (c) is in close custody under *The Fraudulent Debtors Arrest Act* or is discharged from close custody under section 52 of that Act; or
- (d) assigns his property for the benefit of his creditors; or
- (e) absents himself from the meetings of the council for three successive months without being authorized so to do by a resolution of the council entered upon its minutes; or
- (f) files his resignation with the clerk of the municipality as provided in subsection 2 of section 56 for the purpose of becoming a candidate for council in some other office,

Rev. Stat., c. 149.

and the council shall forthwith declare the seat to be vacant. R.S.O. 1937, c. 266, s. 165.

Proceedings if disqualified member fails to resign.

165. Except in the cases provided for by section 164, if a member of a council forfeits his seat or his right to it or becomes disqualified to hold it and does not forthwith resign his seat, proceedings may be taken under sections 171 to 190 to declare it vacant. R.S.O. 1937, c. 266, s. 166.

Resignation of member with consent of council.

166. A member of a council, with the consent of the majority of the members present at a meeting, entered upon the minutes of it, may resign his office and his seat in the council but he shall not vote on a motion as to his own resignation. R.S.O. 1937, c. 266, s. 167; 1943, c. 16, s. 3.

Resignation of warden.

167.—(1) The warden of a county may resign his office either by verbal intimation to the county council when in session or by letter to the clerk when the council is not in session.

Vacancy in office of warden, how filled.

(2) Where from any cause a vacancy occurs in the office of warden when the council is not in session, the clerk shall forthwith notify the members of the vacancy, and if required

in writing so to do by a majority of them, he shall call a special meeting of the council to fill the vacancy. R.S.O. 1937, c. 266, s. 168.

168.—(1) Subject to sections 169 and 170, a new election shall be held forthwith where, When new election to be held.

(a) a person elected has neglected or refused to accept office or to make the prescribed declarations within the prescribed time; or

(b) a vacancy, except in the office of controller, occurs from any cause.

(2) Where a new election is to be held, the head of the council, or if he is absent or unable to act or there is a vacancy in the office, the clerk, or if they are both absent or unable to act or both offices are vacant, one of the members of the council shall forthwith issue a warrant under his hand for the holding of the new election. Warrant for new election.

(3) The returning officer and the deputy returning officers appointed to hold the next preceding election shall be the returning officer and the deputy returning officers to hold the new election, and the nomination shall be held and the polling shall take place at the respective places at which the nomination was held and the polling took place at such last election, unless the council appoints other persons to hold the election and other places at which the nomination shall be held and the polling take place, which the council may do. Returning and deputy returning officers, nomination and polling.

(4) Where a new election becomes necessary before the first meeting of the council in the year for which it is elected, the duties which by subsection 2 are to be performed by the head, clerk or a member of the council shall be performed by the head, clerk or a member of the council of the next preceding year. Procedure where new election before first meeting of council.

(5) The new election shall be held at the latest within 15 days after the receipt of the warrant by the person to whom it is directed, and the person issuing the warrant shall appoint a time for the nomination of candidates and for the polling if a poll is required, and the election shall be conducted in like manner as an annual election. Time for holding election.

(6) The person elected shall hold office for the residue of the term for which the person whose place he is elected to fill was elected. Term of office of members elected.

(7) Notwithstanding that a new election becomes necessary meetings of the council may be held if a majority of the full number of the council is present. R.S.O. 1937, c. 266, s. 169. Majority of council may hold meeting.

Vacancies in office of alderman in cities where election is by general vote.

169.—(1) Where a vacancy occurs in the office of alderman in a city where aldermen are elected by general vote, the unsuccessful candidate who received the highest number of votes at the next preceding election shall be entitled to the office upon making the prescribed declarations within the prescribed time, and if he fails to do so or disclaims the office, one of the candidates following in regular order according to the number of votes received shall, as hereinafter provided, become entitled to the office on making such declarations within the prescribed time.

Candidate having largest assessment to have priority in case of a tie.

(2) Where the number of votes cast for two or more of such candidates is equal, their order of succession shall be determined by the amounts for which they are respectively rated upon the last revised assessment roll, the candidate having the largest assessment having the priority.

Notice of vacancy.

(3) The clerk shall immediately after the vacancy occurs give notice in writing to the candidate who is first in succession that he is entitled to such vacant office if he makes the prescribed declarations within one week after the giving of the notice, and that if he fails to make the declarations within that time, he shall be deemed to have disclaimed the office.

Failure to take prescribed declarations.

(4) If a candidate fails to make the prescribed declarations within the prescribed time, or disclaims the office, the clerk shall forthwith give notice in writing to the candidate next in succession in the same terms as the notice to the first candidate, until the vacant office has been filled or the list of candidates entitled to take it is exhausted.

Service of notice on candidate.

(5) The notice may be served personally or may be sent by registered letter addressed to the candidate, and a record of the service or of the mailing and of the address shall be preserved by the clerk.

When council to elect person to fill vacancy.

(6) If all the aldermen were elected by acclamation, or if no candidate takes the vacant office under the preceding provisions of this section, the council shall forthwith elect a person to fill the vacancy for the remainder of the term of the member whose seat has become vacant. R.S.O. 1937, c. 266, s. 170.

Vacancy in office of mayor of city.

170.—(1) Where the office of mayor of a city becomes vacant in any year and an election to fill the vacancy has not been ordered in a judicial proceeding, the council shall elect one of their number to fill the office for the remainder of the term. R.S.O. 1937, c. 266, s. 171 (1).

In office of mayor, reeve and deputy reeve in towns and villages.

(2) Where the office of mayor, reeve or deputy reeve of a town or of reeve or deputy reeve of a village or township becomes vacant after the 1st day of November in any year or after the 1st day of October where a by-law has been passed

under section 67, and an election to fill the vacancy has not been ordered in a judicial proceeding, the council may elect one of its number to fill the office for the remainder of the term. R.S.O. 1937, c. 266, s. 171 (2); 1948, c. 59, s. 4 (1).

(3) Where a vacancy occurs in the office of councillor after the 1st day of November in any year or after the 1st day of October where a by-law has been passed under section 67 and an election has not been ordered in a judicial proceeding, it shall not be necessary that the vacancy be filled if the council so directs. R.S.O. 1937, c. 266, s. 171 (3); 1948, c. 59, s. 4 (2). When vacancy need not be filled.

(4) Where a vacancy occurs in the office of alderman where aldermen are not elected by general vote and an election has not been ordered in a judicial proceeding, the council, at a meeting called for that purpose, shall elect a person to fill the vacancy for the unexpired term of the member whose seat has become vacant. Vacancy in office of alderman.

(5) Where the seat of a member of council is rendered vacant by reason of the filing of the resignation mentioned in subsection 2 of section 56, the vacancy shall not be filled in the manner provided in section 168 or 169, but the seat shall remain vacant until the next ensuing annual election when it shall be filled in the manner provided by this Act or any special Act which may be applicable, except that the person then elected to fill the vacancy shall hold office only for the remainder of the term for which the person who vacated the office was elected to such office. R.S.O. 1937, c. 266, s. 171 (4, 5). Vacancies not requiring a by-election.

PART IV

PROCEEDINGS TO DECLARE SEAT VACANT

PROCEDURE

171. In this Part,

Interpre-
tation.

- (a) "judge", unless the court is referred to by name, includes a judge of the Supreme Court and a judge of a county or district court; R.S.O. 1937, c. 266, s. 172, cl. (a).
- (b) "master" means Master of the Supreme Court and includes Assistant Master. 1947, c. 69, s. 17.

172.—(1) The validity of the election of a member of a council or his right to hold his seat, or the right of a local municipality to a deputy reeve, may be tried and determined by a judge of the Supreme Court, by the master, or by a Who may try validity of election or right to deputy reeve.

judge of the county or district court of the county or district in which the municipality is situate.

Relator,
where right
to deputy
reeve
contested.

(2) Where the right of a municipality to a deputy reeve is contested any municipal elector in the county or where the validity of the election is contested, any candidate at the election or an elector who gave or tendered his vote at it, or where the election was by acclamation, or the right to sit is contested on the ground that the member has become disqualified or has forfeited his seat since his election, an elector entitled to vote at the election may be the relator. R.S.O. 1937, c. 266, s. 173; 1947, c. 69, s. 18.

Time within
which pro-
ceedings to
be insti-
tuted and
security
and proof
required.

173.—(1) If within six weeks after an election, or one month after the acceptance of office by a member of a council a person entitled to be a relator shows by affidavit reasonable ground for supposing that the election was not legal, or was not conducted according to law, or that the person declared elected was not duly elected, or for contesting the validity of the election, or if within six weeks after the facts come to the knowledge of a person entitled to be a relator he shows by affidavit reasonable ground for supposing that a member of a council has forfeited his seat or become disqualified since his election, the judge or the master, as the case may be, shall give his fiat authorizing the relator, upon entering into a recognizance as hereinafter provided and the same being allowed as sufficient, to serve a notice of motion to determine the matter.

Recogniz-
ance.

(2) The recognizance shall be entered into before the judge or master granting the fiat or before a commissioner for taking affidavits, by the relator in the sum of \$200 and by two sureties, to be allowed as sufficient by the judge or master upon affidavit of justification, each in the sum of \$100, and shall be conditioned to prosecute the motion with effect and to pay to the person against whom it is made any costs which may be adjudged to him against the relator.

Allowance
of recog-
nizance.

(3) When the recognizance has been allowed as sufficient, the judge or master by whom it is allowed shall note upon it and upon the fiat allowing service of the notice of motion, the words "*Recognizance allowed*" and shall initial the same.

Proceedings,
how to
be entitled.

(4) Where the proceedings are taken before a judge of the Supreme Court or before the master, they shall be entitled in the Supreme Court, and where they are taken before a judge of a county or district court, they shall be entitled in that court. R.S.O. 1937, c. 266, s. 174; 1947, c. 69, s. 18.

174. The relator in his notice of motion shall set forth his name in full, his occupation and place of residence, and the interest which he has in the election, whether as candidate or as an elector, and shall state specifically under distinct heads all the grounds of objection to the validity of the election complained of, and in favour of the validity of the election of himself or of any other person where the relator claims that he or that such person was duly elected, or the grounds of forfeiture or disqualification, as the case may be. R.S.O. 1937, c. 266, s. 175.

Contents
of notice
of motion.

175. Before serving the notice of motion, the relator shall file all the affidavits and material upon which he intends to move, except where oral evidence is to be taken, and in that case he shall name in the notice the witnesses whom he proposes to examine. R.S.O. 1937, c. 266, s. 176.

Affidavits,
etc., to be
filed.

176. The notice of motion shall be served within two weeks from the date of the fiat, unless upon a motion to allow substituted service the judge or master otherwise orders, and not less than seven clear days before the day on which the motion is returnable, and shall be served personally unless the person to be served avoids personal service, in which case an order may be made for substituted service. R.S.O. 1937, c. 266, s. 177; 1947, c. 69, s. 18.

Service of
notice of
motion.

177. Where the relator alleges that he or some other person was duly elected, the motion shall be to try the validity of the election complained of and of the alleged election of the relator or other person. R.S.O. 1937, c. 266, s. 178.

Where
relator
claims that
he or an-
other was
elected.

178. Where the grounds of objection apply to two or more persons elected or sitting as members of a council, the relator may proceed by one motion against all of them. R.S.O. 1937, c. 266, s. 179.

One motion
against
several
persons.

179. On the hearing of the motion, the relator shall not be allowed to object to the election of the person complained of or to support the election of himself or of any person alleged to have been duly elected or to attack the right of any member to sit on any ground not specified in the notice of motion; but the judge or the master may entertain any substantial ground of objection to or in support of the validity of the election of either or any of the parties which may appear in evidence before him. R.S.O. 1937, c. 266, s. 180; 1947, c. 69, s. 18.

Hearing of
motion.

180. Where more motions than one are made to try the validity of the election, or the right to sit of the same person, all of them shall be made returnable, and unless otherwise

Who to hear
motions
when more
than one.

directed by a judge of the Supreme Court, shall be heard and determined by the judge or master before whom the motion, notice of which was first served, is returnable, and one order upon all or a separate order upon one or more of them may be made, as he may deem proper. R.S.O. 1937, c. 266, s. 181; 1947, c. 69, s. 18.

Requiring clerk to attend with rolls, voters' lists, etc.

181. The judge or master may require the clerk of any municipality to produce before him or to forward under seal to the clerk of the county or district court for the purpose of production, such assessment rolls, collector's rolls, ballot papers, books, voters' and other lists, and other records of the election and papers in his hands connected with or relating to it as the judge or master may deem proper. R.S.O. 1937, c. 266, s. 182; 1947, c. 69, s. 18.

Taking of evidence to be used on motion.

182. Where the motion is returnable before a judge of the Supreme Court, he may direct that the evidence to be used on the hearing of the motion be taken orally in the presence of counsel for or after notice to all parties interested before a special examiner or a judge of a county or district court, who shall return the evidence so taken to the proper officer of the Supreme Court. R.S.O. 1937, c. 266, s. 183.

Adding parties, etc.

183.—(1) The judge or master, at any stage of the proceedings, may,

- (a) add the returning officer or any deputy returning officer or other person as a party to the proceedings;
- (b) allow any person entitled to be a relator to intervene and prosecute, or to defend, and may grant a reasonable time for that purpose.

Costs.

(2) An intervening party shall be liable for or entitled to costs like any other party to the proceedings. R.S.O. 1937, c. 266, s. 184; 1947, c. 69, s. 18.

Mode of trial.

184.—(1) The judge or master shall, in a summary manner, without formal pleadings, hear and determine the questions raised by or upon the motion, and, subject to subsection 2, may inquire into the facts on affidavit, by oral testimony, or by an issue framed by him and sent to be tried by a jury in any court named by him, or by one or more of those means.

Evidence of corrupt practice to be taken orally.

(2) Where a question is raised as to whether the candidate or any voter has been guilty of any violation of sections 198 to 200, affidavit evidence shall not be used to prove the offence, but it shall be proved by oral evidence taken before the judge or before a special examiner or a judge of a county

or district court, upon an order of reference to him for that purpose by the judge of the Supreme Court, if the motion is returnable before a judge of the Supreme Court, or before the master or the judge of the county or district court if the motion is returnable before him.

(3) Where the seat is claimed for any person, if a candidate is proved to have been guilty, himself or by any person on his behalf, of bribery or of a corrupt practice with respect to a voter who voted at the election, or if a voter, who is employed on behalf of such candidate and is disqualified under subsection 1 of section 64, is proved to have voted, there shall be struck off the number of votes given for such candidate one vote for every such voter. R.S.O. 1937, c. 266, s. 185; 1947, c. 69, s. 18.

185.—(1) Where the election complained of is adjudged to be invalid, the order shall provide that the person found not to have been duly elected be removed from the office, and if it is determined that any other person was duly elected that he be admitted forthwith to the office.

(2) Where it is determined that no other person was duly elected, or that a person duly elected has become disqualified or has forfeited his seat, the order shall provide for the removal from office of such last-mentioned person and, except as provided by section 169, for the holding of a new election. R.S.O. 1937, c. 266, s. 186.

186. Where the election of all the members of a council is adjudged to be invalid, or where it is determined that all of them have become disqualified or have forfeited their seats, the order for their removal, and for the election of new members in their places or for the admission of others adjudged to be legally elected, and for an election to fill the remaining seats in the council, shall be directed to the clerk of the municipality or where there is no clerk to the sheriff of the county or district in which the municipality is situate, who shall have all the powers for causing the election to be held which a municipal council or any member or officer of it has in order to fill a vacancy in it. R.S.O. 1937, c. 266, s. 187.

187.—(1) Where an election is adjudged to be invalid owing to the improper refusal of the returning officer or of a deputy returning officer to receive a ballot paper tendered by or to give a ballot paper to an elector, or owing to such officer having put into the ballot box a ballot paper which was not lawfully received from an elector, the judge or master may order that the costs of the proceedings to unseat the person

declared elected, or any part of them, be paid by such returning officer or deputy returning officer.

Right of
action
against
officers
preserved.

(2) Nothing in this section shall affect any right of action against the returning officer or deputy returning officer or relieve him from any penalty to which he may be liable under this Act. R.S.O. 1937, c. 266, s. 188; 1947, c. 69, s. 18.

Order.

188.—(1) After the adjudication, an order shall be drawn up, stating concisely the ground and effect of the decision.

Amendment
of order.

(2) The order may be at any time amended by the judge or master in any matter of form, and shall have the same force and effect as a writ of mandamus formerly had in the like case. R.S.O. 1937, c. 266, s. 189; 1947, c. 69, s. 18.

Judgment
to be re-
turned to
proper
officer of
court.

189. The judge or master forthwith after rendering his decision shall return the same with all things had before him touching the proceeding, to the proper officer of the court, there to remain of record as a judgment of the court, and the judgment may be enforced for the costs awarded by execution and in other respects in the same manner as an order of mandamus. R.S.O. 1937, c. 266, s. 190; 1948, c. 59, s. 5.

Appeals
from
master
or county
judge.

190.—(1) The decision of a judge of the Supreme Court shall be final, but an appeal shall lie from the decision or order of the master or of a judge of a county or district court to a judge of the Supreme Court whose decision shall be final.

Procedure
on appeal.

(2) The practice and procedure on and in relation to the appeal shall be the same, as nearly as may be, as in the case of an appeal from a decision of the master in an action or proceeding in the Supreme Court. R.S.O. 1937, c. 266, s. 191; 1947, c. 69, s. 18.

Disquali-
fication of
candidate
guilty of
corrupt
practice.

191.—(1) A candidate elected who is found to have been guilty of bribery, or of a corrupt practice, shall forfeit his seat, and shall be ineligible as a candidate at any election for two years thereafter.

Report to
be made
to clerk.

(2) The judge or master shall report to the clerk of the municipality in which the offence was committed the name of every candidate who has been so found guilty, and the clerk shall enter his name in a book to be kept for that purpose. R.S.O. 1937, c. 266, s. 192; 1947, c. 69, s. 18.

DISCLAIMER

192. Any person elected may at any time after the election, and before it is complained of, deliver to the clerk of the municipality a disclaimer signed by him, to the following effect: Disclaimer before complaint.

"I, A.B., hereby disclaim all right to the office of for the of in the county (or district) of, and all defence of any right I may have to the same.

*Dated day of, 19...
A.B."*

R.S.O. 1937, c. 266, s. 193.

193. A person whose election is complained of, unless it is complained of on the ground of bribery or corrupt practices on his part, or a person whose seat is attacked on the ground that he has become disqualified or has forfeited his seat, may, within one week after service on him of the notice of motion, transmit by registered post, or deliver, if the proceedings are in the Supreme Court, to the Registrar of the Supreme Court of Ontario, at Osgoode Hall, Toronto, or if the proceedings are in a county or district court to the judge of that court, and to the relator or his solicitor, a disclaimer signed by him to the following effect: When defendant may disclaim.

"I, A.B., upon whom a notice of motion, in the nature of a quo warranto, has been served for the purpose of contesting my right to the office of for the of, in the county (or district) of, hereby disclaim the said office, and all defence of any right I may have to the same.

*Dated day of, 19...
A.B."*

R.S.O. 1937, c. 266, s. 194.

194. A person disclaiming shall deliver a duplicate of his disclaimer to the clerk of the municipality, and the clerk shall forthwith communicate it to the council. R.S.O. 1937, c. 266, s. 195. Duplicate of disclaimer to be delivered to clerk.

195.—(1) A disclaimer in accordance with section 192 or 193 shall operate as a resignation. Disclaimer to operate as resignation.

(2) A disclaimer in accordance with section 192 shall relieve the person making it from all liability for costs. Costs.

When costs
not to be
awarded.

(3) Costs shall not be awarded against a person disclaiming under section 193, unless he consented to his nomination or accepted the office. R.S.O. 1937, c. 266, s. 196.

RULES OF PRACTICE

Rules Com-
mittee to
make rules,
etc.

196. Subject to the approval of the Lieutenant-Governor in Council, the Rules Committee may make rules regulating the practice and procedure in relation to proceedings under this Part, including the costs of and incidental to them, and as to matters not provided for in this Part, or by rules of court, the practice and procedure of the Supreme Court shall be applicable. R.S.O. 1937, c. 266, s. 197; 1941, c. 35, s. 5.

Procedure
substituted
for *quo*
warranto
proceedings.

197. Proceedings for the removal from office of a person whose election is alleged to have been undue or illegal, or who is alleged not to have been duly elected, whether or not the seat is claimed by or on behalf of the relator or any other person, and proceedings to have the right of a person to sit in a council determined shall be had and taken under the provisions of this Part and not by *quo warranto* proceedings or by an action in any court. R.S.O. 1937, c. 266, s. 198.

PART V

BRIBERY AND CORRUPT PRACTICES

Bribery,

198.—(1) Every person who,

bribing
voter or
procuring
bribery by
money;

(a) directly or indirectly, himself or by any other person on his behalf, gives, lends or agrees to give or lend, or offers or promises any money or valuable consideration, or promises to procure or to endeavour to procure any money or valuable consideration to or for any voter, or to or for any person on behalf of any voter, or to or for any person in order to induce any voter to vote or refrain from voting, or corruptly does any such act on account of any voter having voted or refrained from voting at an election; or

by gift or
offer or
promise of
employment;

(b) directly or indirectly, himself or by any other person on his behalf, gives or procures or agrees to give or procure, or offers or promises any office, place or employment, or promises to procure or to endeavour to procure any office, place or employment to or for any voter, or to or for any other person in order to induce any voter to vote or refrain from voting, or corruptly does any such act on account of any voter having voted or refrained from voting at an election; or

- (c) directly or indirectly, himself or by any other person on his^a behalf, makes any such gift, loan, offer, promise, procurement or agreement, to or for any person, in order to induce such person to procure or endeavour to procure the return of any candidate, or the vote of any voter at an election; or to induce anyone to procure return of candidate or endeavour to procure;
- (d) upon or in consequence of any such gift, loan, offer, promise, procurement or agreement, procures or engages, promises or endeavours to procure the return of any candidate, or the vote of any voter at an election; or receiving bribe to procure return of candidate;
- (e) advances or pays, or causes to be paid, money to or to the use of any other person, with the intent that such money or any part of it shall be expended in corrupt practices at an election, or who knowingly pays or causes to be paid money to any person in discharge or repayment of money wholly or in part expended in corrupt practices at an election; or advancing money to be spent in corrupt practices;
- (f) directly or indirectly, himself or by any other person on his behalf, on account of and as payment for voting or for having voted, or for illegally agreeing or having agreed to vote for any candidate at an election, or on account of and as payment for having illegally assisted or agreed to assist any candidate at an election, applies to such candidate or to his agent for the gift or loan of any money or valuable consideration, or for the promise of the gift or loan of any money or valuable consideration, or for any office, place or employment, or the promise of any office, place or employment; or applying for money or employment in consideration of voting;
- (g) before or during an election, directly or indirectly, himself or by any other person on his behalf, receives, agrees or contracts for any money, gift, loan or valuable consideration, office, place or employment, for himself or any other person, for voting or agreeing to vote, or for refraining or agreeing to refrain from voting at an election; or receiving money, office, etc., for having voted;
- (h) after an election, directly or indirectly, himself or by any other person on his behalf, receives any money or valuable consideration for having voted or refrained from voting, or for having induced any other person to vote or refrain from voting at an election; or receiving money corruptly after election;
- (i) in order to induce a person to allow himself to be nominated as a candidate, or to refrain from becoming a candidate, or to withdraw if he has become a can- giving or promising office to candidate to stand or withdraw.

didate, gives or procures any office, place or employment, or agrees to give or procure or offers or promises to procure, or endeavours to procure any office, place or employment for such person, or for any other person,

shall be guilty of bribery, shall be disqualified from voting at any election for two years, and shall be liable to a penalty of \$200, and shall also be liable to imprisonment for a term of not more than six months.

Personal
expenses of
candidate.

(2) The actual personal expenses of a candidate, his reasonable expenses for actual professional services performed, and *bona fide* payments for the fair cost of printing and advertising and other lawful and reasonable expenses in connection with the election, incurred by the candidate or any agent in good faith and without any corrupt intent, shall be deemed to be expenses lawfully incurred, and the payment thereof shall not be a contravention of this Act. R.S.O. 1937, c. 266, s. 199.

Conveying
voters to
poll.

199.—(1) A candidate who himself or by any other person on his behalf and every other person who,

- (a) hires or promises to pay or pays for a conveyance to carry a voter to or near or from or on the way to or from a polling place; or
- (b) pays the travelling or other expenses of a voter in going to or returning from a polling place,

and every person who for a valuable consideration provides or furnishes a conveyance knowing that it is to be used to carry a voter other than the hirer to or near or from or on the way to or from a polling place shall be guilty of a corrupt practice and shall be liable to a penalty of \$100, and, if a voter, shall be disqualified from voting at the election; but this subsection shall not apply to the carrying of voters to the poll in a conveyance used by the candidate personally on polling day.

Furnishing
transporta-
tion to
voters.

(2) Every person who provides or furnishes transportation free of charge or at a diminished rate to a voter to or near or from or on the way to or from a polling place, and whether passes or tickets or the like are or are not supplied, shall be guilty of a corrupt practice and shall be liable to a penalty of \$100, and, if a voter, shall be disqualified from voting at the election.

Exception as
to private
vehicles.

(3) Save as provided in subsection 1 nothing in this Act shall render it unlawful for any person to provide his own private vehicles for the purpose of taking voters to and from the poll free of charge.

(4) "Conveyance", for the purposes of this section, includes a horse, team, carriage, cab, vehicle, boat or vessel. R.S.O. 1937, c. 266, s. 200. Interpretation.

200.—(1) Every person who, directly or indirectly, himself or by any other person on his behalf, uses or threatens to use force, violence or restraint, or inflicts or threatens to inflict injury, damage, harm or loss, or in any manner practises intimidation upon or against a voter in order to induce or compel him to vote or refrain from voting, or on account of his having voted or refrained from voting, or who, by abduction, duress, or false or fraudulent pretence, device or contrivance, impedes, prevents or otherwise interferes with the free exercise of the franchise of a voter, or thereby compels, induces or prevails upon a voter to vote or refrain from voting, shall be guilty of a corrupt practice and shall be disqualified from voting for two years and shall be liable to a penalty of \$200, and shall also be liable to imprisonment for a term of not more than one year. Undue influence.

(2) It shall be a false pretence within the meaning of this section to represent to a voter, directly or indirectly, that the ballot to be used, or the mode of voting at an election, is not secret. R.S.O. 1937, c. 266, s. 201. Pretence, that ballot not secret.

201. The clerk shall furnish every deputy returning officer with at least two copies of sections 198 to 200, and the deputy returning officer shall post the same in conspicuous places at the polling place. R.S.O. 1937, c. 266, s. 202. Posting of provisions as to corrupt practices.

202.—(1) No person shall be excused from answering any question put to him in an action or proceeding touching or concerning an election, or the conduct of any person thereat, or in relation thereto, on the ground of any privilege or on the ground that the answer will tend to criminate him or subject him to any penalty under this Act. Witnesses not excused from answering on ground of privilege, etc.

(2) No answer given by any person claiming to be excused on the ground of privilege, or on the ground that such answer will tend to criminate him or subject him to any penalty under this Act, shall be used in any proceeding thereunder against such person, if the judge or officer before whom he is examined gives to the witness a certificate that he claimed the right to be excused on either of such grounds, and made full and true answer to the satisfaction of the judge. R.S.O. 1937, c. 266, s. 203. Answers of witness not to be used against him if judge gives certificate.

WHEN NO PENALTY RECOVERABLE

203. No pecuniary penalty shall be recoverable for bribery or a corrupt practice if it appears that the person charged and When penalty for corrupt practice not to be recoverable.

another person or other persons were together guilty of the act charged, either as giver and receiver, or as accomplices or otherwise, and that the person charged has previously *bona fide* prosecuted such other person or persons or any of them for the offence; but this provision shall not apply if the judge before whom the person claiming the benefit of it is charged, certifies that it clearly appears to him that the person so charged took the first step towards the commission of the offence and that he was in fact the principal offender. R.S.O. 1937, c. 266, s. 204.

PART VI

MEETINGS OF MUNICIPAL COUNCILS

FIRST MEETING OF COUNCIL

First meet-
ing of
council,
local munic-
ipalities;

204.—(1) The first meeting of the council of a local municipality shall be held on the second Monday in January at eleven o'clock in the forenoon or at such hour as may be fixed by by-law, or on such day prior to the second Monday in January and at such hour as may be fixed by by-law.

county.

(2) The first meeting of the council of a county shall be held on the third Tuesday in January at two o'clock in the afternoon or at such hour as may be fixed by by-law, or on such day prior to the third Tuesday in January and at such hour as may be fixed by by-law. 1947, c. 69, s. 19 (1).

Declarations
of office
before
business.

(3) No business shall be proceeded with at the first meeting until after the declarations of office have been made by all the members who present themselves for that purpose. R.S.O. 1937, c. 266, s. 205 (3); 1947, c. 69, s. 19 (2).

When
council
deemed
organized.

(4) A council shall be deemed to be organized within the meaning of this Act when the declarations of office have been made by a majority of the members, and it may be organized and business may be proceeded with notwithstanding the failure of any of the other members to make such declarations. R.S.O. 1937, c. 266, s. 205 (4); 1947, c. 69, s. 19 (3).

Certificate
of election.

205. A member of a county council shall not take his seat until he has filed with the clerk of the county council a certificate (Form 18), under the hand of the clerk of the municipality for which he was elected and the seal of the corporation. R.S.O. 1937, c. 266, s. 206.

Warden,
election of.

206.—(1) In each year at the first meeting of a county council at which a majority of all the members is present, they shall organize as a council and elect one of the members to be warden.

(2) The clerk shall preside, or if there is no clerk, the members present shall select a member to preside, and the person so elected may vote as a member. Clerk to preside.

(3) Subject to subsection 4 and to section 217, the warden shall be elected in the manner provided by resolution of the council passed prior to the election. R.S.O. 1937, c. 266, s. 207 (1-3). Conduct of election.

(4) In case of an equality of votes, the reeve, or in his absence the deputy reeve, of the municipality which for the preceding year had the largest equalized assessment shall have a second or casting vote. R.S.O. 1937, c. 266, s. 207 (4); 1939, c. 30, s. 13; 1940, c. 18, s. 6. Case of equality of votes.

PLACE OF MEETING

207. The first meeting of a county council shall be held at the county hall if there is one, and if there is none, at the court house. R.S.O. 1937, c. 266, s. 208. Place of first meeting of county council.

208. The subsequent meetings of the county council, and all meetings of every other council shall be held at such place as the council from time to time appoints. R.S.O. 1937, c. 266, s. 209. Subsequent meetings.

209.—(1) The council of a county in which an urban municipality lies may hold its meetings, keep its public offices and transact all the business of the corporation and of its officers and servants within such municipality and may acquire or rent and hold such real estate therein and erect such buildings thereon as may be convenient for such purpose. Location of offices, county;

(2) The council of a township shall have the like power in respect of an adjacent urban municipality or township in the same county. R.S.O. 1937, c. 266, s. 210. township.

210.—(1) The ordinary meetings of every council shall be open, and no person shall be excluded therefrom except for improper conduct. Ordinary meetings to be open.

(2) The head or other presiding officer may expel or exclude from any meeting any person who has been guilty of improper conduct at the meeting. R.S.O. 1937, c. 266, s. 211. Exclusion of certain persons.

211.—(1) A majority of the whole number of members required to constitute a council shall be necessary to form a quorum. Quorum.

(2) Where a council consists of only five members, the current votes of at least three of them shall be necessary to carry any resolution or other measure. R.S.O. 1937, c. 266, s. 212. Where council consists of five members.

Head of
council to
preside.

212.—(1) The head of the council shall preside at all meetings of the council.

Special
meeting.

(2) The head of the council may at any time summon a special meeting, and upon receipt of the petition of the majority of the members of the council the clerk shall summon a special meeting for the purpose and at the time mentioned in the petition. 1940, c. 18, s. 7.

Place of
special
meeting.

213. If there is no by-law or resolution fixing the place of meeting, a special meeting shall be held at the place where the then last meeting was held, and a special meeting may be either open or closed as in the opinion of the council, expressed by resolution in writing, the public interest requires. R.S.O. 1937, c. 266, s. 214.

Appoint-
ment of
presiding
officer in
absence of
head.

214. In the absence of the head of the council, or if his office is vacant, or if he refuses to act, the council may, from among the members, appoint a presiding officer, who during such absence or vacancy or refusal to act, shall have all the powers of the head of the council. R.S.O. 1937, c. 266, s. 215; 1940, c. 18, s. 8.

Casual
absence of
presiding
officer.

215. If the person who ought to preside at any meeting does not attend within fifteen minutes after the hour appointed, the members present may appoint a presiding officer from among themselves, and he shall have the same authority as the absent person would have had if present. R.S.O. 1937, c. 266, s. 216.

Head or
presiding
officer may
vote;
equality of
votes.

216. The head of the council, or the presiding officer, except where he is disqualified to vote by reason of interest or otherwise, may vote with the other members on all questions, and, except where otherwise expressly provided by this Act, any question on which there is an equality of votes shall be deemed to be negatived. R.S.O. 1937, c. 266, s. 217.

Voting to
be open
and to be
recorded.

217.—(1) Where a division is taken upon the election of a warden or other presiding officer, upon the appointment of an officer of the corporation or upon a by-law, resolution or for any other purpose, each member present shall announce his vote openly and individually, and the clerk shall record it.

No vote
by ballot.

(2) No vote shall be taken by ballot or by any other method of secret voting, and every vote so taken shall be of no effect. R.S.O. 1937, c. 266, 218.

Prohibition
as to mem-
ber voting
to appoint
himself to
office.

218. No member of a council shall vote on any by-law appointing him to any office in the gift of the council or fixing or providing his remuneration for any service to the corpora-

tion, but this shall not apply to allowances for attendance at meetings of the council or its committees. R.S.O. 1937, c. 266, s. 219.

219. A council may adjourn its meetings from time to time. R.S.O. 1937, c. 266, s. 220. ^{Adjournment.}

220. The council of a county may by by-law provide that a member who in council has an additional vote by virtue of subsection 2 of section 48 shall as a member of any committee have an additional vote therein. R.S.O. 1937, c. 266, s. 221. ^{Voting of county councillors in committee.}

PART VII

BOARDS OF CONTROL

221. In cities having a population of not less than 100,000, there shall be a board of control consisting of the mayor and four controllers to be elected by general vote. R.S.O. 1937, c. 266, s. 222. ^{In cities of not less than 100,000.}

222.—(1) In cities having a population of less than 100,000, but more than 45,000, the council may, with the assent of the municipal electors, pass a by-law providing that there shall be a board of control consisting of the mayor and four controllers to be elected by general vote. ^{In cities between 45,000 and 100,000.}

(2) No such by-law shall be repealed without the assent of the municipal electors, nor until at least five annual elections have been held under it, and no repealing by-law shall be passed later in the year than the 1st day of November. R.S.O. 1937, c. 266, s. 223. ^{Repeal of by-law.}

223.—(1) The council of any city having a board of control may by by-law fix the salaries of the members of the board. ^{Salaries of members.}

(2) Where the population of a city is less than 100,000, the salary shall not exceed for each member of the board the sum of \$1,500 per annum. R.S.O. 1937, c. 266, s. 224 (1, 2).

(3) Where the population of a city exceeds 100,000 but is less than 150,000, the salary shall not exceed for each member of the board the sum of \$2,500 per annum. R.S.O. 1937, c. 266, s. 224 (3); 1948, c. 59, s. 6 (1).

(4) Where the population of a city exceeds 150,000 but is less than 200,000, the salary shall not exceed for each member of the board the sum of \$3,500 per annum. 1948, c. 59, s. 6 (2).

(5) Where the population of a city exceeds 200,000, the salary shall not exceed for each member of the board the sum of \$5,000 per annum. R.S.O. 1937, c. 266, s. 224 (4).

Presiding
officer to
act in
absence of
mayor.

224. During the absence of the mayor or if there is a vacancy in the office, the person appointed as presiding officer of the council shall act as a member of the board. R.S.O. 1937, c. 266, s. 225.

Quorum.
Mayor to
preside.

225.—(1) Three members of a board of control shall form a quorum, and the mayor shall preside at the meetings of the board, and in his absence, the members shall appoint one of their number to preside.

Filling
vacancies.

(2) If a vacancy occurs in the office of controller, the council, at a meeting called for that purpose, shall elect a person to fill the vacancy for the unexpired term of the member whose seat has become vacant. R.S.O. 1937, c. 266, s. 226.

Duties of
board,

226.—(1) It shall be the duty of the board of control,

to prepare
estimates;

(a) to prepare estimates of the proposed expenditure of the year and certify them to the council for its consideration;

to award
contracts;

(b) to prepare specifications for and award all contracts and for that purpose to call for all tenders for works, material, and supplies, implements, machinery, or other goods or property required and which may lawfully be purchased for the use of the corporation, and to report its action to the council at its next meeting;

to inspect
municipal
works;

(c) to inspect and report to the council monthly or oftener upon all municipal works being carried on or in progress;

to nominate
officers of
corporation.

(d) to nominate to the council all heads of departments and sub-departments in case of a vacancy and, after a favourable report by the head of the department, any other officer of the corporation required to be appointed by by-law or resolution of the council, and any other permanent officers, clerks or assistants, and to recommend the salaries of all officers and clerks;

to dismiss
or suspend.

(e) to dismiss or suspend any head of a department and forthwith to report such dismissal or suspension to the council.

Appropriation
and
expenditure.

(2) The council shall not appropriate or expend, nor shall any officer thereof expend or direct the expenditure of any sum not provided for by the estimates or by a special or supplementary estimate certified by the board to the council, without a two-thirds vote of the council authorizing such appropriation or expenditure, but this prohibition shall not extend to the payment of any debenture or other debt or liability of the corporation.

(3) When opening tenders, the board shall require the presence of the head of the department or sub-department with which the subject matter of them is connected, and when requisite the presence of the city solicitor.

Head of department to be present when tenders are opened.

(4) The head of such department or sub-department may take part in any discussion at the board relating to the tenders.

Discussion as to tenders.

(5) The council shall not without a two-thirds vote reverse or vary the action of the board in respect of the tenders, when the effect of such vote would be to increase the cost of the work or to award the contract to a tenderer other than the one to whom the board has awarded it.

Reversal by council of action of board.

(6) No head of a department or sub-department or other permanent officer, clerk or assistant shall be appointed or selected by the council in the absence of the nomination of the board as provided by clause *d* of subsection 1, without a two-thirds vote.

Appointment of head of department on nomination of board.

(7) Where the head of a department has been dismissed by the board, he shall not be reappointed or reinstated by the council without a two-thirds vote.

Reinstatement of dismissed head.

(8) In the absence of a by-law of the council prescribing the mode of appointing, engaging or employing any officers, clerks, assistants, employees, servants and workmen not included in clauses *d* and *e* of subsection 1, the board may direct by whom and in what manner they shall be appointed, engaged or employed.

Controlling appointment and duties of subordinate officers.

(9) The board may submit proposed by-laws to the council.

Submission of by-laws, etc.

(10) The board, where in its opinion it is desirable, may amalgamate departments or sub-departments.

Amalgamation of departments.

(11) The board may appoint a secretary or clerk who shall keep minutes of its proceedings, prepare its reports and perform such other duties as may be assigned to him by the board or by the mayor or the council.

Secretary of board.

(12) The council may by by-law or resolution assign to the board such other duties as the council may deem proper.

Other duties assigned by council.

(13) The board, when so required by resolution of the council, and upon one week's notice thereof, shall furnish to the council copies of the minutes of its proceedings and any other information in its possession which the council may require.

Copies of minutes, when to be furnished to council.

(14) The council may refer back to the board any report, nomination, question or matter for reconsideration.

Referring matter back for reconsideration.

(15) Where it is sought in council to reverse, set aside or vary the action of the board, or where a two-thirds vote is

Recording votes on action of board.

required, the vote by yeas and nays shall be recorded in the minutes of the council.

School
boards to
send in
estimates.

(16) The public, high and separate school boards, the board of education, the board of commissioners of police and the public library board and every other board whose estimates are to be provided for, shall furnish their annual estimates to the board on or before the 1st day of March in each year.

Certain
officers
not to be
nominated
by board.

(17) Clause *d* of subsection 1 shall not apply to a member of the fire department, except the head of it, or to an assessor, except the assessment commissioner, or to a representative of the council upon the board of a harbour trust, or of a corporation on the board of which the council is entitled to elect a representative, or to a member of the court of revision.

Powers of
head of
department
before 7th
April, 1896.

(18) Nothing in this section shall deprive the head of a department of the power which he possessed on the 7th day of April, 1896, under any by-law or otherwise, to dismiss any subordinate officer, clerk or employee.

Exclusive
rights of
board.

(19) Notwithstanding anything in this Act, the duties assigned to the board shall be discharged exclusively by the board, except in the case mentioned in subsection 9. R.S.O. 1937, c. 266, s. 227.

Board of
control in
cities of
45,000 or
less.

227.—(1) In cities having a population of 45,000 or less, the council may, with the assent of the electors, pass a by-law providing that there shall be a board of control consisting of the mayor and two controllers to be elected by general vote.

Qualification
of members.

(2) No person may be elected as a controller unless he is a person who is qualified to be elected as an alderman.

By-law
establishing
board.

(3) A by-law passed under subsection 1 shall be passed not later than the 1st day of November in any year and shall take effect for the year next following that in which it is passed, and no such by-law shall be repealed without the assent of the electors, nor until at least six years have elapsed from the time when it first took effect, and no repealing by-law shall be passed later than the 1st day of November in any year.

Term of
office of
members.

(4) The members of the board of control established under this section shall hold office for the term of one year and until their respective successors are elected.

Vacancies.

(5) If any vacancy occurs in the office of a controller other than the mayor, the vacancy shall be filled by a new election, and the person elected to fill the vacancy shall hold office for the unexpired term of office of his predecessor; provided that where the vacancy in the office of controller occurs within three months of the time when his term of office would have expired, it shall not be necessary to fill the vacancy.

(6) The members of a board of control established under this section, other than the mayor, shall serve without salary or remuneration, but they shall be entitled to be reimbursed for any reasonable travelling or other expenses necessarily incurred and paid by them in the performance of their powers and duties. Travelling expenses, etc.

(7) During the absence of the mayor, or if there is a vacancy in the office, the person appointed as presiding officer of the council shall act as a member of the board. Absence of or vacancy in office of mayor.

(8) Two members of the board shall form a quorum and the mayor, if present, shall preside at all meetings. Quorum.

(9) It shall be the duty of a board of control established under this section, Duties of board.

(a) to prepare the yearly estimates provided for in section 311 and to certify them to the council for its consideration;

(b) to administer the revenues and expenditures of the corporation so as to ensure the receipt and application thereof as provided by statute and by the yearly estimates adopted by the council, and to prevent any appropriation of the revenues and the making of any expenditure otherwise than as so provided or as provided by any supplementary estimates adopted by the council;

(c) to administer such other of the affairs of the corporation as may from time to time be provided by by-law passed by a two-thirds vote of all the members of the council.

(10) The council shall not appropriate or expend nor shall any officer of the corporation appropriate or expend or direct the appropriation or expenditure of any sum not provided for by the yearly estimates or by a supplementary estimate certified by the board to the council without a two-thirds vote of all the members of the council authorizing such appropriation or expenditure. Appropriation and expenditure.

(11) Nothing in subsections 9 and 10 shall extend to prohibit the payment of any obligation, debt or other liability to which by law the corporation is committed. Payment of obligations.

(12) Except by a vote of three-fourths of all the members of the council, no by-law for any work or undertaking which will involve the issue of debentures of the corporation to meet the cost thereof or the borrowing of moneys therefor shall finally be passed by the council until it is certified to the council by the board; provided, however, that nothing herein shall By-laws.

prevent any such by-law being passed by the council without such certificate if the council is by law required to pass the by-law.

Clerks,
appoint-
ment and
dismissal.

(13) No head of a department or sub-department or other permanent officer, clerk or assistant shall be appointed, selected or dismissed by the council in the absence of the nomination of the board except by a two-thirds vote of all the members of the council.

Application
of certain
provisions
of s. 226.

(14) Subsections 9, 10, 11, 13, 14, 15 and 19 of section 226 shall apply to this section. R.S.O. 1937, c. 266, s. 228.

PART VIII

OFFICERS OF MUNICIPAL CORPORATIONS

THE HEAD

Who to be
head of
council.

228.—(1) The warden of a county, the mayor of a city or town and the reeve of a village or township, shall be the head of the council and the chief executive officer of the corporation. R.S.O. 1937, c. 266, s. 229 (1).

Acting head
of council.

(2) When the head of the council is absent from the municipality or absent through illness or his office is vacant, the council may by resolution appoint one of its members to act in his place and stead, and while so acting, such member shall have and may exercise all the rights, powers and authority of the head of the council. 1946, c. 60, s. 24.

Duties of
head of
council

229. It shall be the duty of the head of the council,

- (a) to be vigilant and active in causing the laws for the government of the municipality to be duly executed and obeyed;
- (b) to oversee the conduct of all subordinate officers in the government of it and, as far as practicable, cause all negligence, carelessness and violation of duty to be prosecuted and punished; and
- (c) to communicate to the council from time to time such information, and recommend to it such measures as may tend to the improvement of the finances, health, security, cleanliness, comfort and ornament of the municipality. R.S.O. 1937, c. 266, s. 230.

Remunera-
tion of head.

230. The head of the council may be paid such annual or other remuneration as the council may determine. R.S.O. 1937, c. 266, s. 231; 1944, c. 39, s. 14.

231. The mayor of a city or town may call out the *posse comitatus* to enforce the law within the municipality under the same circumstances in which the sheriff of a county may now by law do so. R.S.O. 1937, c. 266, s. 232.

Mayor may call out *posse comitatus*.

232. The council of any municipality may by by-law, passed with the written consent of the head of the council, appoint a member of the council to act in the place of the head of the council on any board, commission or other body of which the head of the council is a member *ex officio* under any general or special Act, except a board of commissioners of police. 1947, c. 69, s. 20.

Substitute for head of council as *ex officio* member of boards, etc.

THE CLERK

233.—(1) The council shall appoint a clerk, whose duty it shall be,

Appointment of clerk, and his duties.

- (a) to truly record in a book, without note or comment all resolutions, decisions and other proceedings of the council;
- (b) if required by any member present, to record the name and vote of every member voting on any matter or question;
- (c) to keep the books, records and accounts of the council;
- (d) to preserve and file all accounts acted upon by the council;
- (e) to keep in his office or in the place appointed for that purpose, the originals of all by-laws and of all minutes of the proceedings of the council;
- (f) to perform such other duties as may be assigned to him by council. R.S.O. 1937, c. 266, s. 234 (1); 1944, c. 39, s. 15.

(2) The council may appoint a deputy clerk who shall have all the powers and duties of the clerk under this and every other Act.

Deputy clerk.

(3) When the office of clerk is vacant or the clerk is unable to carry on his duties, through illness or otherwise, the council may appoint an acting clerk *pro tempore* who shall have all the powers and duties of the clerk under this and every other Act. 1947, c. 69, s. 21.

Acting clerk.

234.—(1) Any person may, at all reasonable hours, inspect any of the records, books or documents mentioned in section 233 and the minutes and proceedings of any committee of the

Minutes, etc., to be open to inspection, and copies to be furnished.

council, whether the acts of the committee have been adopted or not, and the assessment rolls, voters' lists, poll books and other documents in the possession or under the control of the clerk, and the clerk shall, within a reasonable time, furnish copies of them, certified under his hand and the seal of the corporation, to any applicant on payment at the rate of 10 cents for every 100 words or at such lower rate as the council may fix.

Copies certified by clerk to be receivable in evidence.

(2) A copy of any record, book or document in the possession or under the control of the clerk purporting to be certified under his hand and the seal of the corporation, may be filed and used in any court in lieu of the original, and shall be received in evidence without proof of the seal or of the signature or official character of the person appearing to have signed the same, and without further proof, unless the court otherwise directs. R.S.O. 1937, c. 266, s. 235.

Clerks' returns to Department.

235.—(1) The clerk of every municipality shall in each year within the time prescribed by the Department make a return to the Department on forms provided by it of such information and statistics with respect to the financial affairs, accounts and transactions of the municipality as the Department may prescribe, and every such return shall be transmitted by registered post.

Penalty.

(2) For every contravention of this section, the clerk shall be guilty of an offence and liable to a penalty of not more than \$40.

Returns by Department.

(3) The Department shall cause to be prepared annually a tabulated statement of the returns which shall be laid before the Assembly. R.S.O. 1937, c. 266, s. 237.

THE TREASURER

Treasurer.

236.—(1) The council shall appoint a treasurer. 1946, c. 60, s. 27, *part.*

Deputy treasurer.

(2) The council may appoint a deputy treasurer who shall have all the powers and duties of the treasurer under this and every other Act.

Acting treasurer.

(3) When the office of treasurer is vacant or the treasurer is unable to carry on his duties through illness or otherwise, the council may appoint an acting treasurer *pro tempore* who shall have all the powers and duties of the treasurer under this and every other Act. 1947, c. 69, s. 22.

Appointment of county treasurer *pro tem.*

237.—(1) In case of the death of the treasurer of a county, the warden may, by warrant under his hand, appoint for such special purpose as he may deem necessary, a treasurer *pro*

tempore, who shall hold office until the next meeting of the council, and all acts authorized by the warrant which are performed by him shall be as valid and binding as if performed by a treasurer. R.S.O. 1937, c. 266, s. 239 (1).

(2) The warden shall, by the warrant, direct that security within the meaning of subsection 2 of section 251 shall be given by the treasurer *pro tempore* for the faithful performance of his duties, and for duly accounting for and paying over all money which comes into his hands, and before entering upon his duties he shall give such security, but he shall not interfere with the books, vouchers or accounts of the deceased treasurer until a proper audit of them has been made. R.S.O. 1937, c. 266, s. 239 (2); 1946, c. 60, s. 28.

238.—(1) The treasurer shall receive and safely keep all money of the corporation, and shall pay out the same to such persons and in such manner as the laws of Ontario and the by-laws or resolutions of the council direct, provided that every cheque issued by the treasurer shall be signed by the treasurer and by some other person designated for the purpose by by-law or resolution of the council and such other person before signing a cheque shall satisfy himself that the issue thereof is authorized. R.S.O. 1937, c. 266, s. 240 (1); 1944, c. 39, s. 16.

(2) Notwithstanding subsection 1, the council of a local municipality having a population of less than 5,000 or a county may by by-law provide that cheques issued by the treasurer shall be signed by the treasurer only and the council of any other municipality may by by-law provide that the signature of the treasurer on cheques may be written, stamped, lithographed or engraved or may designate one or more persons to sign cheques in lieu of the treasurer. 1946, c. 60, s. 29.

(3) Except where otherwise expressly provided by this Act, a member of the council shall not receive any money from the treasurer for any work or service performed or to be performed.

(4) The treasurer shall not be liable for money paid by him in accordance with a by-law or resolution of the council, unless another disposition of it is expressly provided for by statute. R.S.O. 1937, c. 266, s. 240 (2, 3).

239. The treasurer shall open an account in the name of the corporation in such of the chartered banks of Canada or at such other place of deposit as may be approved of by the council, and shall deposit to the credit of such account all money received by him on account of the corporation, and he shall keep the money of the corporation entirely separate from his own money. R.S.O. 1937, c. 266, s. 241.

Half-yearly
statement
of assets.

240. Every treasurer shall prepare and submit to the council, half-yearly, a statement of the money at the credit of the corporation. R.S.O. 1937, c. 266, s. 242.

Treasurers'
returns to
Department.

241.—(1) The treasurer of every municipality shall in each year within the time prescribed by the Department make a return to the Department on forms provided by it of such information and statistics with respect to the financial affairs, accounts and transactions of the municipality as the Department may prescribe, and every such return shall be transmitted by registered post.

Penalty.

(2) For every contravention of this section the treasurer shall be guilty of an offence and liable to a penalty of not more than \$40.

Returns by
Department.

(3) The Department shall cause to be prepared annually a tabulated statement of the returns which shall be laid before the Assembly. R.S.O. 1937, c. 266, s. 243.

Provision
on dismissal
from office.

242. Where a treasurer is removed from office or absconds the council shall forthwith give notice to his sureties, and his successor may draw any money of the corporation which may have been deposited by the treasurer to his credit. R.S.O. 1937, c. 266, s. 245.

ASSESSORS AND COLLECTORS

Assessors
and collec-
tors, appoint-
ment.

243.—(1) The council of every local municipality shall appoint as many assessors and as many collectors for the municipality as may be deemed necessary.

Appoint-
ments need
not be
annual.

(2) Every by-law appointing an assessor or a collector shall remain in force until repealed, and it shall not be necessary to appoint the assessor or collector annually.

Regulations
as to
duties of.

(3) The council may assign to an assessor or collector the district within which he is to act, and may make regulations for governing him in the performance of his duties.

Extent of
jurisdiction.

(4) In a city, town or township the same person may be appointed assessor or collector for more than one ward or polling subdivision. R.S.O. 1937, c. 266, s. 246.

Assessment
commis-
sioners and
boards of
assessors.

244.—(1) The council of a local municipality may appoint an assessment commissioner and may constitute a board of assessors which shall have all the powers and perform all the duties of assessors. 1946, c. 60, s. 31 (1).

Duties of,
in certain
cities and
towns.

(2) The council of a city or town, having a population of less than 20,000, may provide that all the duties of an assessor shall be performed by the assessment commissioner, and in

that case it shall not be necessary to appoint assessors. R.S.O. 1937, c. 266, s. 247 (2).

(3) It shall not be necessary to appoint annually the assessment commissioner or the assessors. R.S.O. 1937, c. 266, s. 247 (3); 1946, c. 60, s. 31 (2). Annual appointments not necessary.

(4) In a local municipality which has an assessment commissioner, all notices in matters relating to assessment which in other municipalities are required by this or any other Act to be given to the clerk shall be given to the assessment commissioner. R.S.O. 1937, c. 266, s. 247 (4). Notices.

AUDITORS AND AUDIT

245.—(1) The council of every municipality shall by law appoint one or more auditors who shall be persons licensed by the Department as municipal auditors and who shall hold office during good behaviour and be removable for cause upon the vote of two-thirds of the members of the council and every person so appointed shall in addition to his duties in respect of the corporation audit the accounts and transactions of every local board as defined in *The Department of Municipal Affairs Act*. 1944, c. 39, s. 17; 1946, c. 60, s. 32 (1). Appointment of auditors. Rev. Stat., c. 96.

(2) Where a local board functions in more than one municipality, the accounts and transactions thereof shall be audited by an auditor of the municipality in which the local board functions most, and in the event of disagreement as to the proper auditor the matter upon application may be determined by the Department. 1947, c. 69, s. 23 (1). Where local board in more than one municipality.

(3) Where an auditor audits the accounts and transactions of a local board, the cost thereof shall be paid by the municipality and charged back to the local board, and in the event of a dispute as to the amount of the cost the Department may upon application finally determine the amount thereof. Cost of audit.

(4) Every board, commission, body or local authority established or exercising any power or authority with respect to municipal affairs under any general or special Act in an unorganized township or in unsurveyed territory shall appoint one or more auditors and the provisions of this Act with respect to auditors shall apply *mutatis mutandis*. Local boards in unorganized territory.

(5) Where by any other general or special Act auditors are required to be appointed or elected by or for any authority within the meaning of this section, the exercise of such power shall not be mandatory, notwithstanding such Act. 1946, c. 60, s. 32 (2), *part*. Provision to avoid duplication of audits.

Disqualifi-
cation of
persons as
auditors.

(6) No person shall be appointed as an auditor of a municipality who is or during the preceding year was a member of the council or any local board of the municipality or of any other local board the accounts and transactions of which it would as auditor be his duty to audit or who has or during the preceding year had any direct or indirect interest in any contract with the municipality or any of the aforementioned local boards or any employment with any of them other than as an auditor. 1949, c. 61, s. 5.

Case of
county
auditor
refusing
to act.

(7) If a person appointed auditor for a county refuses, or is unable to act, the head of the council shall appoint another person not in the employment of such head to be auditor in his stead. R.S.O. 1937, c. 266, s. 248 (3).

Duties of
auditor.

246. An auditor shall perform such duties as are prescribed by the Department and also such duties as may be required by the council or any local board that do not conflict with the duties prescribed by the Department. 1947, c. 69, s. 24.

Auditors
may ad-
minister
oaths.

247. An auditor may administer an oath to any person concerning any account or other matter to be audited. R.S.O. 1937, c. 266, s. 252.

Audit of
accounts
before pay-
ment.

248. The council of any municipality may provide that all accounts shall be audited before payment. R.S.O. 1937, c. 266, s. 254; 1944, c. 39, s. 19.

The council
to audit
finally, etc.

249. The council shall, upon the report of the auditors, finally audit and allow the accounts of the treasurer and collectors, and all accounts chargeable against the corporation, and where charges are not regulated by law, the council shall allow what is reasonable. R.S.O. 1937, c. 266, s. 255.

Money pay-
able by prov-
ince to be
retained if
returns not
made.

250. The Treasurer of Ontario may in his discretion retain in his hands any money payable to a corporation, if it is certified to him by the Department that any officer of the corporation whose duty it is to make returns to the Department has not done so. R.S.O. 1937, c. 266, s. 256.

Security to
be furnished
by officers.

251.—(1) Every treasurer, deputy treasurer and collector and every other officer of the corporation as the council may require, before entering on the duties of his office shall give annually such security as the council directs for the faithful performance of such duties and for duly accounting for and paying over all money which comes into his hands. R.S.O. 1937, c. 266, s. 257 (1).

(2) The security to be given shall be by the bond, policy or guarantee contract of a guarantee company within the meaning of *The Guarantee Companies Securities Act* and shall be in such form and on such terms as the Department may approve. R.S.O. 1937, c. 266, s. 257 (2); 1947, c. 69, s. 25 (1).

Nature of security.
Rev. Stat., c. 162.

(3) It shall be the duty of the council at a meeting held not later than the 15th day of February in every year with respect to those of its officers who continue in office from year to year and at the first meeting after his appointment with respect to any newly appointed officer, to require the production before it of every bond, policy or guarantee contract required under this section. R.S.O. 1937, c. 266, s. 257 (3).

Inspection of surety bonds.

(4) The council shall forthwith after the production thereof direct where and with whom the bonds, policies and guarantee contracts given under this section shall be deposited for safe keeping and where the same shall be available for inspection by the auditor, and the auditor shall in his annual report to the Department include such information with respect to the same as may be required by the Department. 1947, c. 69, s. 25 (2).

Inspection and return as to security.

(5) The premiums payable in respect of any bond, policy or guarantee contract given under this section shall be payable by the corporation out of its general funds.

Premiums.

(6) The Department may upon examination of any return made to it for any municipality under this section report to the council in respect to matters arising out of the return, and as to the necessity for other officers, employees and servants furnishing security, and as to the sufficiency of security furnished as disclosed by the return. R.S.O. 1937, c. 266, s. 257 (5, 6).

Notices from Department as to surety bonds.

(7) This section shall apply *mutatis mutandis* to the treasurer and every other officer as the board may require of a local board as defined in *The Department of Municipal Affairs Act*, except a school board, and to every board, commission, body or local authority established or exercising any power or authority with respect to municipal affairs under any general or special Act in an unorganized township or in unsurveyed territory, except a school board. 1946, c. 60, s. 33; 1950, c. 46, s. 9.

Local boards and authorities.
Rev. Stat., c. 96.

252. The council of any municipality may prior to the day fixed for holding nominations publish a detailed statement signed by the head of the council and the treasurer of the revenues and expenditures for the current year in the form and manner prescribed by the Department. 1946, c. 60, s. 34.

Publication of statements of revenues and expenditures.

DUTIES OF OFFICERS RESPECTING OATHS AND DECLARATIONS

Declaration
of office.

253.—(1) Every member of a council, trustee of a police village, every public utility commissioner and commissioner of industries, and every clerk, treasurer, assessment commissioner, assessor, collector, engineer, clerk of works and street overseer or commissioner, before entering on the duties of his office, shall make and subscribe a declaration of office (Form 19).

Declaration
of person
appointed to
more than
one office.

(2) Every person elected or appointed to two or more municipal offices may make one declaration of office as to all of them.

Declaration
of constable.

(3) Every constable, before entering upon the duties of his office, shall make and subscribe a declaration (Form 20).

Oath of
office.

(4) Every returning officer, deputy returning officer and poll clerk before entering upon the duties of his office shall take the oath of office (Form 21).

Administra-
tion of oaths
to deputy
returning
officers and
poll clerks.

(5) Where by this Act any oath or declaration is required to be made by a deputy returning officer or by a poll clerk, and no special provision is made therefor, the same, in the case of a deputy returning officer, may be made before the returning officer for the municipality or ward or before the poll clerk or before any person authorized to administer an oath, and, in the case of a poll clerk, before any such person or before the deputy returning officer.

Auditor's
declaration.

(6) Every auditor, before entering upon his duties, shall make and subscribe a declaration (Form 22).

Filing of
declaration.

(7) Except where otherwise provided the person by whom the oath or declaration is made shall file the same in the office of the clerk within eight days after it is made. R.S.O. 1937, c. 266, s. 259.

Declaration
of office.

254. Every qualified person elected to any municipal office shall take the declaration of office, where he is elected to fill a vacancy, within 10 days after his election, and in other cases on or before the day fixed for holding the first meeting of the body to which he was elected, and in default he shall be deemed to have resigned. R.S.O. 1937, c. 266, s. 261.

SALARIES, TENURE OF OFFICE AND GRATUITIES

Salaries of
officers.

255.—(1) When the remuneration of any officer of a corporation is not fixed by law, the council shall fix it.

Remunera-
tion of clerk
for certain
services.
Rev. Stat.,
c. 105.

(2) The council shall give to the clerk for services and duties performed by him under *The Ditches and Watercourses Act*, a fair and reasonable remuneration to be fixed by the council.

(3) The council shall fix the sum to be paid to the clerk by any person for copies of awards or other documents, or for any other services rendered by him, other than such as it is his duty to perform under that Act. Fees for copies of awards, etc.

(4) Where an appointment to an office or an arrangement for the discharge of the duties of an office is to be made, the council shall not invite or require applicants to name a sum for which they will discharge the duties of the office, or give the appointment to, or make the arrangement with, the person who offers to perform the duties at the lowest salary or remuneration. Remuneration not to be settled by tender.

(5) Notwithstanding that a corporation employs a solicitor or a counsel whose remuneration is wholly or partly paid by salary, annual or otherwise, the corporation shall have the right to recover and collect lawful costs in all actions and proceedings in the same manner as if the solicitor or counsel was not so remunerated, if the costs are, by the terms of his employment, payable to the solicitor or counsel as part of his remuneration in addition to his salary. R.S.O. 1937, c. 266, s. 262. When municipality employing solicitor at a salary may recover costs.

256. All officers appointed by a council shall hold office during the pleasure of the council, and shall, in addition to the duties assigned to them by this Act, perform all other duties required of them by any other Act or by by-law of the council. R.S.O. 1937, c. 266, s. 263. Tenure of office. Duties.

257.—(1) A council may grant an annual retirement allowance, payable weekly, monthly or otherwise during his life to any employee who has been in the service of the corporation for at least 20 years and who while in the service has become incapable, through illness or old age, of efficiently discharging his duties, provided that the retirement allowance and the amount of any pension payments payable to the employee in any year shall not exceed three-fifths of his average annual salary for the preceding three years of his service, or \$2,500. 1946, c. 60, s. 35, *part*. Retirement allowances.

(2) "Pension payments" in subsection 1 means only pension payments that have resulted from the joint contributions of employer and employee, and does not include any such payments that have resulted solely from contributions of the employee. 1950, c. 46, s. 10 (1). Interpretation.

(3) Where an employees' pension is in operation, this section shall apply only to employees who were in the employ of the municipality on the 5th day of April, 1946, and in any event shall not apply to any employee who enters the service Application of section.

of the municipality after the 1st day of January, 1948. 1946, c. 60, s. 35, *part*; 1950, c. 46, s. 10 (2).

Interpre-
tation.

(4) In this section, "employee" has the same meaning as in paragraph 48 of section 386. 1946, c. 60, s. 35, *part*.

INVESTIGATION OF CHARGES OF MALFEASANCE, ETC., OR JUDICIAL INQUIRY IN RELATION TO MUNICIPAL MATTERS

Investiga-
tion by
county
judge of
charges of
malfeasance.

258.—(1) Where the council of a municipality passes a resolution requesting a judge of the county or district court of the county or district in which the municipality is situate, or a judge of the county or district court of a county or district adjoining the county or district in which the municipality is situate to investigate any matter relating to a supposed malfeasance, breach of trust or other misconduct on the part of a member of the council, or an officer or a servant of the corporation, or of any person having a contract with it, in regard to the duties or obligations of the member, officer, servant or other person to the corporation, or to inquire into or concerning any matter connected with the good government of the municipality or the conduct of any part of its public business, including any business conducted by a commission appointed by the municipal council or elected by the electors, the judge shall make the inquiry and shall for that purpose have all the powers which may be conferred upon commissioners under *The Public Inquiries Act*, and he shall, with all convenient speed, report to the council the result of the inquiry and the evidence taken. R.S.O. 1937, c. 266, s. 266 (1); 1938, c. 23, s. 2.

Rev. Stat.,
c. 308.

Fees payable
to judge.
Rev. Stat.,
c. 190.

(2) The judge shall be paid by the corporation the same fees as he would be entitled to if the inquiry had been made by him as a referee under *The Judicature Act*.

Engaging
counsel.

(3) The council may engage and pay counsel to represent the corporation, and may pay all proper witness fees to persons summoned to give evidence at the instance of the corporation, and any person charged with malfeasance, breach of trust or other misconduct, or whose conduct is called in question on such investigation or inquiry, may be represented by counsel. R.S.O. 1937, c. 266, s. 266 (2, 3).

PART IX

GENERAL PROVISIONS APPLICABLE TO ALL MUNICIPALITIES

Jurisdiction
of councils.

259.—(1) Except where otherwise provided, the jurisdiction of every council shall be confined to the municipality which it represents and its powers shall be exercised by-law.

(2) A by-law passed by a council in the exercise of any of the powers conferred by and in accordance with this Act, and in good faith, shall not be open to question, or be quashed, set aside or declared invalid, either wholly or partly, on account of the unreasonableness or supposed unreasonableness of its provisions or any of them. R.S.O. 1937, c. 266, s. 267.

By-law not to be quashed because unreasonable.

260. Every council may pass such by-laws and make such regulations for the health, safety, morality and welfare of the inhabitants of the municipality in matters not specifically provided for by this Act, as may be deemed expedient and are not contrary to law, and for governing the proceedings of the council, the conduct of its members and the calling of meetings. R.S.O. 1937, c. 266, s. 268.

General power to make regulations.

261. Proceedings begun by one council may be continued and completed by a succeeding council. R.S.O. 1937, c. 266, s. 269.

Council a continuing body.

262. The council of a local municipality shall not, after the 31st day of December in the year for which its members were elected, pass any by-law or resolution for, or which involves, directly or indirectly, the payment of money, or enter into any contract or obligation on the part of the corporation, or appoint to or dismiss from office any officer under the control of the council, or do any other corporate act, except in case of extreme urgency, or unless the act is one which the council is required by law to do. R.S.O. 1937, c. 266, s. 270.

Certain acts not to be done by councils after 31st December.

263.—(1) The power to license any trade, calling, business or occupation or the person carrying on or engaged in it includes the power to prohibit the carrying on of or the engaging in it without a licence.

Power to license includes power to prohibit.

(2) Except where the power of fixing the fee to be paid for the licence is expressly conferred on a board of commissioners of police, the council of the municipality, where by this or any other Act, the council or the board is authorized to pass by-laws for licensing any trade, calling, business or occupation or the person carrying on or engaged in it may, subject to the limitations contained in the Act, fix the fee to be paid for the licence and the time for which it shall be in force and may provide for enforcing payment of the licence fee.

Who to fix amount of licence fee.

(3) The licence fee may be in the nature of a tax for the privilege conferred by it.

Licence fee may be a tax.

(4) Subject to *The Theatres and Cinematographs Act*, the granting or refusing of a licence to any person to carry on a particular trade, calling, business or occupation, or of revoking a licence under any of the powers conferred upon a council or

Discretion as to granting or refusing a licence. Rev. Stat., c. 389.

a board of commissioners of police by this or any other Act, shall be in its discretion, and it shall not be bound to give any reason for refusing or revoking a licence and its action shall not be open to question or review by any court.

Certain
licences not
to be refused
by reason
only of loca-
tion of busi-
ness affected.

(5) Notwithstanding subsection 4, a board of commissioners of police or a council shall not refuse to grant a licence with respect to the carrying on of any business by reason only of the location of such business where such business was being carried on at such location at the time of the coming into force of the by-law requiring such licence. 1938, c. 22, s. 14.

Refund
when licence
revoked.

(6) Where a licence is revoked the licensee shall be entitled to a refund of a part of the licence fee proportionate to the unexpired part of the term for which it was granted.

Appeal from
decision of
police com-
missioners
in licence
matters.

(7) Notwithstanding subsection 4 the decision of a board of commissioners of police in refusing or revoking a licence shall be subject to an appeal therefrom to a judge of the Supreme Court whose decision shall be final.

Practice
on appeals.

(8) The practice and procedure on and in relation to an appeal made under subsection 7 shall be the same, as nearly as may be, as in the case of an appeal from a decision of the Master of the Supreme Court in an action or proceeding in the Supreme Court. R.S.O. 1937, c. 266, s. 271.

Granting
monopolies
prohibited.
Rev. Stat.,
cc. 135, 387.

264.—(1) Subject to section 265, and to section 6 of *The Ferries Act* and to section 81 of *The Telephone Act*, a council shall not confer on any person the exclusive right of exercising, within the municipality, any trade, calling or business, or impose a special tax on any person exercising it, or require a licence to be taken for exercising it, unless authorized or required by this or any other Act so to do; but the council may require a fee, not exceeding \$1, to be paid to the proper officer for a certificate of compliance with any regulations in regard to the trade, calling or business.

Limiting
number of
pool and
billiard
tables and
licences.

(2) This section shall not prevent the council under the powers conferred by paragraph 1 of section 413 from limiting the number of licences and the number of tables to such number as the council may deem fit even if the number be limited to one. R.S.O. 1937, c. 266, s. 272.

Exclusive
right to
maintain
waste-paper
boxes on
streets.

265.—(1) The council of a city may grant to any person, upon such terms and conditions as may be deemed expedient, the exclusive right to place and maintain for any period not exceeding 10 years, iron waste-paper boxes on the street corners or elsewhere in the city, under and subject to the direction of the city engineer and the approval of the council.

(2) The location of the boxes shall be subject to change from time to time at the expense of the grantee, by whom the boxes shall be kept clean and painted and the collections therein removed to the satisfaction of the city engineer and as often as he may direct.

Location
of boxes.

(3) The council may,

Power to
control and
collect fees.

- (a) regulate and control the type of construction of such boxes and from time to time vary and change the locations thereof;
- (b) allow the painting of advertisements thereon and regulate the wording thereof and prohibit the placing of objectionable matter thereon;
- (c) fix and collect an annual fee from the owner thereof for the privilege granted;
- (d) keep such boxes clean and undertake the removal of the waste deposited therein. R.S.O. 1937, c. 266, s. 273.

266. The council of a city may establish and carry on the business of cold storage in connection with or upon the market property of the corporation. R.S.O. 1937, c. 266, s. 274.

Cold storage
business.

267.—(1) Subject to the limitations and restrictions contained in this Act, a council may borrow money for the purposes of the corporation, whether under this or any other Act, and may issue debentures therefor.

Borrowing
powers.

(2) A debt contracted by the corporation of a city for the construction or maintenance of a street railway shall not be included as a part of its debt for the purpose of determining whether the limit of its borrowing power as fixed by any special Act has been reached. R.S.O. 1937, c. 266, s. 275.

Debts for
street
railways.

(3) No debentures shall be issued for the purposes set out in section 387. 1939, 2nd Sess., c. 6, s. 1.

No debentures for
patriotic
purposes.

268.—(1) Where under this or any other general Act, two or more municipalities are authorized or required jointly to provide moneys for any purpose, and it is necessary to raise such moneys by the issue of debentures, the Municipal Board upon the application of the council of one or more of such municipalities may by order authorize one of such municipalities to raise the whole amount required by the issue of its debentures, or to raise its portion of the moneys and the portion of one or more of the other municipalities by the issue of its debentures, and may by its order relieve the other municipalities or such other municipalities, as the case may be, from the necessity of issuing debentures.

Debentures
for joint
under-
takings.

Annual
rates.

(2) Where, under an order of the Municipal Board under subsection 1, any municipality issues debentures for the portion of the moneys required to be raised by another municipality, the other municipality shall provide and raise by a special rate on all the rateable property in the municipality liable therefor, in each year of the currency of the debentures, a sum sufficient to pay its share of the principal and interest falling due in such year upon such debentures, such share to be determined in the proportion that that municipality's portion of the moneys required to be raised bears to the total amount of the debenture issue.

Payment to
municipality
issuing
debentures.

(3) The sum to be raised annually by such other municipality shall be paid to the treasurer of the municipality which issued the debentures not later than the date in each year fixed by the order of the Municipal Board, and if not paid by such date shall bear interest at the rate of six per cent per annum until paid.

Consent
required.

(4) No order of the Municipal Board under this section shall require a municipality, without its consent, to issue debentures to provide moneys required to be raised by another municipality.

Limited
application
of section.

(5) This section shall not apply where the Act under which the moneys are authorized or required to be raised contains provisions similar in effect to the provisions of this section. 1950, c. 46, s. 11.

AUTHENTICATION OF BY-LAWS

How by-
laws to be
authenti-
cated.

269.—(1) Every by-law shall be under the seal of the corporation, and shall be signed by the head of the council, or by the presiding officer at the meeting at which the by-law was passed and by the clerk.

Proof of
seal or
signature not
required.

(2) Every by-law purporting to be so sealed and signed, when produced by the clerk or any officer of the corporation charged with the custody of it, shall be received in evidence in all courts without proof of the seal or signature.

Omission
to affix
seal.

(3) Where, by oversight, the seal of the corporation has not been affixed to a by-law, it may be affixed at any time afterwards, and, when so affixed, the by-law shall be as valid and effectual as if it had been originally sealed.

Certified
copy of
by-law.

(4) A copy of a by-law, purporting to be certified by the clerk, under the seal of the corporation, as a true copy, shall be received in evidence in all courts, without proof of the seal or signature. R.S.O. 1937, c. 266, s. 276.

CERTIFICATE OF CLERK AS TO APPLICATION FOR BY-LAW

270.—(1) Where by this or any other Act it is provided that a by-law may be passed by a council upon the application of a prescribed number of electors or inhabitants of the municipality or locality, the by-law shall not be finally passed until the clerk, or, where there is an assessment commissioner, the assessment commissioner has certified that the application was sufficiently signed.

Certificate of clerk that application for by-law duly signed.

(2) For the purposes of this section, the clerk and the assessment commissioner shall have all the powers of the clerk under section 15 of *The Local Improvement Act*.

Powers of clerk.

Rev. Stat., c. 215.

(3) Where the clerk or assessment commissioner has so certified, his certificate shall be conclusive that the application was sufficiently signed. R.S.O. 1937, c. 266, s. 277.

Certificate to be conclusive.

PART X

VOTING ON BY-LAWS

271. In this Part,

Interpretation.

- (a) "by-law" includes a resolution and a question upon which the opinion of the electors is to be obtained;
- (b) "electors" means the persons entitled to vote on the by-law;
- (c) "judge" means judge or junior judge of the county or district court of the county or district in which the municipality, the council of which submits the by-law, is situate;
- (d) "proposed by-law" means a by-law submitted for the assent of the electors. R.S.O. 1937, c. 266, s. 278.

272. All the provisions of this Act, prohibiting the doing of any act or making it an offence against this Act, and prescribing penalties therefor, applicable to the election of members of municipal councils shall apply *mutatis mutandis* to the voting upon a by-law, whether the submission of it to the electors is optional with or compulsory upon the council. R.S.O. 1937, c. 266, s. 279.

Bribery sections, etc., to apply to voting on any by-law or question.

273.—(1) Where a by-law requires the assent or is submitted to obtain the opinion of the electors, except where otherwise provided the council shall, by a separate by-law, appoint the day for taking the votes of the electors, the places where the votes are to be taken and a deputy returning officer to take the votes at every such place.

If a by-law requires the assent of the electors, mode of obtaining same.

Wards.

(2) Where a municipality is divided into wards, there shall be at least one polling place in each ward.

Date of taking vote.

(3) The date appointed shall not be less than three or more than five weeks after the first publication of the notice herein-after mentioned.

Time for submission of certain by-laws.

(4) In any city having a population of not less than 40,000 a proposed by-law providing for the purchase or acquiring of any public utility or street railway or for entering into any agreement for that purpose, or for disposing of any public utility or granting any public franchise shall be submitted only on the day fixed for taking the poll at the annual municipal election.

Time and place for summing up votes, etc., by clerk.

(5) The by-law for taking the vote shall also appoint a time when, and a place where the clerk will sum up the number of votes given for and against the proposed by-law, or in the affirmative and the negative on the question and a time and a place for the appointment of persons to attend at the polling places, and at the final summing up of the votes by the clerk, on behalf of the persons interested in and promoting or opposing the by-law or voting in the affirmative or the negative on the question. R.S.O. 1937, c. 266, s. 280 (1-5).

Publication of by-law.

(6) A copy of the proposed by-law, or a statement of the question submitted, as the case may be, shall be published once a week for three successive weeks, together with a notice signed by the clerk stating that the copy is a true copy of a proposed by-law, or a correct statement of the question submitted, as the case may be, and in the case of a by-law that, if the assent of the electors is obtained to it, it will be taken into consideration by the council after the expiration of one month from the date of the first publication, which date shall also be stated, and in the case of a money by-law, or a question as to securing a supply of electrical power or energy from The Hydro-Electric Power Commission of Ontario, stating that a tenant who desires to vote must deliver to the clerk not later than the tenth day before the day appointed for taking the vote the declaration provided for by subsection 3 of section 276. R.S.O. 1937, c. 266, s. 280 (6); 1941, c. 35, s. 8.

Notice.

(7) The notice shall also state the day and places appointed for taking the votes, except where the votes are to be taken at the same time as the annual election, and, in that case, shall state that the votes will be taken at the annual election, and shall also state the time and place for the appointment of persons to attend at the polling places and at the final summing up of the votes by the clerk.

(8) Instead of publishing a copy of the proposed by-law, the council may publish a synopsis of it, containing a concise statement of its purpose, the amount of the debt or liability to be created or the money to be raised by it, how the same is to be payable, and the amount to be raised annually for the payment of the debt, and the interest or the instalments, if the debt is to be paid by instalments. R.S.O. 1937, c. 266, s. 280 (7, 8). Synopsis of by-law may be published.

(9) Where more than one by-law or question is to be submitted at the same time, all of such by-laws and questions may be included in one notice. 1946, c. 60, s. 36. By-laws, questions, in one notice.

274. Where more than one by-law or question is to be submitted at the same time, all of such by-laws and questions may be placed upon one ballot paper. 1946, c. 60, s. 37. By-laws, questions, in one ballot.

275.—(1) The head of the council, or a member of it appointed for that purpose by resolution, shall attend at the time and place appointed, and, if requested so to do, shall appoint, by writing signed by him, two persons to attend at the final summing up of the votes by the clerk, and one person to attend at each polling place on behalf of the persons interested in and desirous of promoting the proposed by-law, or voting in the affirmative on the question, and a like number on behalf of the persons interested in and desirous of opposing the proposed by-law or voting in the negative on the question. Appointment of persons to attend at polling places and at final summing up of votes.

(2) Before any person is so appointed, he shall make and subscribe a declaration (Form 23). Declaration.

(3) A person so appointed, before being admitted to the polling place or to the summing up of the votes, shall, if so requested, produce and show his appointment to the deputy returning officer. Appointment to be produced.

(4) In the absence of a person so appointed, or if no person has been appointed, any elector, upon making and subscribing, before the returning officer or deputy returning officer, a declaration (Form 23), may be present at a polling place, or at the final summing up of the votes, as the case may be. R.S.O. 1937, c. 266, s. 282. When elector may act.

276.—(1) The persons qualified to vote on a money by-law shall be those entitled to vote at an election with the following exceptions, Persons qualified to vote on money by-laws.

- (a) tenants, other than those mentioned in subsection 3;
- (b) farmers' sons;
- (c) farmer's daughter or farmer's sister.

- (d) a person who is a municipal elector by reason of being the wife or husband of the person rated or entitled to be rated for land as provided by clause *d* of subsection 1 of section 58. R.S.O. 1937, c. 266, s. 283 (1); 1938, c. 22, s. 5.

Nominee of
corporation.

(2) The nominee of a corporation assessed upon the last revised assessment roll of the municipality which, if it had been a male person, would have been entitled to have been entered on the voters' list from which the list of voters mentioned in section 277 is to be prepared or in the case provided for by section 103 would, had it been a male person, have been entitled to be entered on such list of voters, shall also be qualified to vote.

Qualification
of tenants.

(3) A tenant whose lease extends for the time for which the debt or liability is to be created or in which the money to be raised by the proposed by-law is payable, or for at least 21 years, and who has by the lease covenanted to pay all municipal taxes in respect of the property other than local improvement rates, if he makes and files with the clerk, not later than the tenth day before the day appointed for taking the vote, a declaration under the *Canada Evidence Act* so stating shall be entitled to have his name entered on the list of voters prepared by the clerk, under section 277.

R.S.C. 1927,
c. 59.

Appointment
of nominee
of corpora-
tion to be
filed with
clerk.

(4) Where a corporation entitled to appoint a nominee to vote on its behalf desires to vote on a money by-law it shall not later than the tenth day before the day appointed for taking the vote file with the clerk of the municipality an appointment in writing of a person to vote as its nominee and on its behalf, and the name of every such nominee shall be included in the list. R.S.O. 1937, c. 266, s. 283 (2-4).

Preparation
of list of
voters.

277.—(1) Where the proposed by-law is a money by-law or one on which all the municipal electors are not entitled to vote, the clerk, after the passing of the by-law for taking the vote, and not later than the tenth day before the day appointed for taking the vote, shall prepare a list of the persons entitled to vote on the proposed by-law and, subject to section 278 and to section 25 of *The Voters' Lists Act*, the list so prepared shall be final and conclusive as to the right of every person named therein to vote, and that no person not named therein is entitled to vote. R.S.O. 1937, c. 266, s. 284 (1); 1939, c. 30, s. 16.

Rev. Stat.,
c. 414.

From last
revised
voters' list
or assess-
ment roll.

(2) The clerk shall prepare such list from the last revised voters' list, and in the case provided for by section 103 from the last revised assessment roll, omitting from his list the names of all persons whose names are entered on such voters' list or assessment roll, but are not entitled as appears by such list or

roll to vote on the by-law, and in the case of money by-laws including in the list the nominees of corporations who are entitled to vote on the by-law.

(3) When the voting is to take place at the same time as the annual municipal elections, it shall be sufficient in the case of persons whose names are entered on the voters' list as tenants, if there is written on the voters' list used for the purpose of the election opposite to the name of such of them as are entitled to vote on the by-law the words "entitled to vote on the by-law", and it shall be deemed that the names of all others of such persons are omitted from the list within the meaning of subsection 2.

Designating
tenants
entitled to
vote.

(4) The list prepared by the clerk shall be certified by him to be a true and correct list of all persons entitled to vote on the proposed by-law, and shall be forthwith posted up in his office. R.S.O. 1937, c. 266, s. 284 (2-4).

Clerk to
certify.

278.—(1) At any time not later than five days before the day appointed for taking the vote, a judge, upon the application of any person whose name is entered on the list of voters prepared by the clerk, or of any person entitled to be entered on that list, may strike from the list the name of any person who is dead or whose name has been wrongfully entered on it, and may add to the list the name of any person whose name has been wrongly omitted from the list, or who, if a tenant, though he had not made the declaration prescribed by subsection 3 of section 276, establishes that he has the qualification prescribed by that section. R.S.O. 1937, c. 266, s. 285 (1).

Revision
of list by
judge.

(2) For the purpose of proving a death, the certificate of the Registrar-General shall be sufficient evidence, but if the identity of the person who is dead with the person whose name is sought to be struck off is disputed, or open to reasonable doubt, proof of the identity shall be required. R.S.O. 1937, c. 266, s. 285 (2), *amended*.

Proof of
death.

(3) The proceedings shall be the same, as nearly as may be, as prescribed by subsection 2 of section 23 of *The Voters' Lists Act*. R.S.O. 1937, c. 266, s. 285 (3).

Proceedings.
Rev. Stat.,
c. 414.

279. Where all the municipal electors are entitled to vote on the proposed by-law, the same lists shall be used in taking the vote as would be the proper voters' list to be used at a municipal election, and such lists shall be as final and conclusive as to the right to vote as when used at a municipal election. R.S.O. 1937, c. 266, s. 286.

Voters' list
where all
municipal
electors
vote.

280. In a municipality divided into wards, a voter shall be entitled to vote on a money by-law in each ward in which he has the prescribed qualification, but shall not be entitled to

Where rate-
payers
qualified in
more than
one ward.

vote more than once on any other by-law or on any question submitted to the electors unless it is otherwise expressly provided by the Act, by-law, or other authority under which the vote is taken. R.S.O. 1937, c. 266, s. 287.

Clerk not
to have cast-
ing vote.

281. The clerk, if otherwise qualified, shall be entitled to vote, but not to give a casting vote. R.S.O. 1937, c. 266, s. 288.

Form of bal-
lot papers.

282.—(1) The ballot papers shall be according to Form 24 when the voting is on a by-law, and according to Form 25 when it is on a question. R.S.O. 1937, c. 266, s. 289.

Designation
of wards and
polling sub-
divisions.

(2) In a municipality divided into wards or polling subdivisions, or both, the ballot paper, Form 24 or 25, may by by-law be varied to show the names or numbers of the wards and the numbers of the polling subdivisions, and the form of ballot paper illustrated in Form 26 shall be varied accordingly. 1950, c. 46, s. 12.

Directions
to voters.

283. The printed directions to voters shall be according to Form 26. R.S.O. 1937, c. 266, s. 290.

Voter's oath
where all
municipal
electors
vote.

284.—(1) Where all the municipal electors are entitled to vote, the voter's oath shall be the same *mutatis mutandis* as at a municipal election where the members of the council are elected by general vote.

Voter not
entitled to
select form
of oath.

(2) In the case of a money by-law, a voter shall not be entitled to select the form of oath he will take, but the oath to be taken by him shall be that applicable to his qualification as an owner or tenant, as it appears in the list of voters. R.S.O. 1937, c. 266, s. 291.

Application
of Part III.

285. Except as otherwise in this Part provided, Part III shall apply *mutatis mutandis* to voting on a by-law. R.S.O. 1937, c. 266, s. 292.

Clerk to
certify result
to council.

286. After the clerk has summed up the number of votes cast, he shall declare the result of the voting and shall forthwith certify to the council the number of votes cast for and against the by-law. R.S.O. 1937, c. 266, s. 293.

Assent of
electors,
what
deemed
to be.

287. A by-law shall be deemed to have been assented to by the electors if a majority of the votes cast is in favour of the by-law. R.S.O. 1937, c. 266, s. 294.

Procedure
in case of
a county
by-law.

288. Where the by-law is proposed to be passed by a county council, the proceedings shall be similar to those in the case of a by-law proposed to be passed by the council of a local municipality except that the list of voters for each local

municipality shall be prepared by the clerk of it and not by the clerk of the county council, and that the declaration and appointment provided for by subsections 3 and 4 of section 276 shall be filed with the clerk of the local municipality. R.S.O. 1937, c. 266, s. 295.

SCRUTINY

289.—(1) Within two weeks after the clerk has declared the result of the voting, any person who was entitled to vote upon the by-law or the council, after giving notice of the application to such persons as the judge directs, may apply to a judge of the county or district court of the county or district in which the municipality is situate for a scrutiny of the votes, and if it is shown by affidavit that there are reasonable grounds for the application, and, if the application is by a person entitled to vote on the by-law, he enters into a recognizance before the judge and to be allowed by him, in the sum of \$100, with two sureties in the sum of \$50 each, conditioned to prosecute the application with effect and to pay to any person to whom costs may be awarded the costs awarded to him, the judge may order a scrutiny of the votes to be had, and shall appoint a time and place within the municipality for proceeding with it.

Scrutiny may be had on application to county or district judge.

(2) At least one week's notice of the time and place appointed, shall be given by the applicant to such persons as the judge directs and to the clerk.

Notice of time of scrutiny.

(3) At the time and place appointed the clerk shall attend before the judge with the ballot papers, and the judge after hearing such evidence as he may deem necessary and the parties, or such of them as attend, or their counsel, shall in a summary manner determine whether the by-law has been assented to as required by this Act, and shall forthwith certify the result to the council.

Proceedings.

(4) Where it is proved that any person interested in and promoting or opposing the by-law was guilty of bribery or of a corrupt practice in respect of a voter who voted on the by-law, or if any person who is disqualified under subsection 1 of section 64 from voting at an election is proved to have voted, there shall be struck off the number of votes given for the by-law if the person guilty or so disqualified was promoting the by-law, or given against the by-law if the person guilty or so disqualified was opposing the by-law, one vote for every ballot cast by such voter.

Striking off votes for corrupt practices.

(5) The judge shall have the like power and authority as to all matters arising upon the scrutiny as would be possessed by him upon a trial of the validity of the election of a member of

Powers of judge.

a council, but shall not have power to set aside the voting on the ground of general bribery or corrupt practices, and the costs shall be in the discretion of the judge who may direct by whom, to whom, and in what manner they shall be paid.

No appeal.

(6) The decision of the judge shall be final and not subject to appeal. R.S.O. 1937, c. 266, s. 296.

PASSING BY-LAWS BY COUNCIL

Cases in which council must pass by-law assented to by electors.

290.—(1) Subject to subsection 5, where a proposed by-law which the council has been legally required by petition or otherwise to submit for the assent of the electors has received such assent, it shall be the duty of the council to pass the by-law within six weeks after the voting took place.

Discretion of council in other cases.

(2) Subject to subsection 5, in other cases it shall not be incumbent on the council to pass the by-law, but if the council determines to pass it, it shall be passed within six weeks after the voting took place and not afterwards.

Time within which by-law cannot be passed.

(3) The by-law in either case shall not be passed until the expiration of two weeks after the result of the voting has been declared, or, if within that period an order for a scrutiny has been made, until the result of the scrutiny has been certified by the judge.

Time occupied by scrutiny not to be counted.

(4) The time which intervenes between the making of an application for a scrutiny and the final disposition of it shall not be reckoned as part of the six weeks.

Extension of time for passing by-law.

(5) The Municipal Board may, upon the application of the council, extend the time for passing the by-law beyond such period of six weeks, and such extension of time may be made although the application for the same is not made until after the expiration of such period of six weeks, and in such case the by-law may be passed within such extended time. R.S.O. 1937, c. 266, s. 297.

PROMULGATION OF BY-LAWS

Promulgation of by-laws.

291.—(1) The promulgation of a by-law shall consist in the publication of a true copy of it, with a notice (Form 27), appended thereto, at least once a week for three successive weeks.

If not moved against within the time limited to be valid.

(2) If an application to quash the by-law, or part of it, is not made within three months after the first publication, the by-law, or so much of it as is not the subject of or is not quashed upon any such application, shall be valid and binding according to its terms, so far as the same ordains, prescribes or directs anything within the proper competence of the council. R.S.O. 1937, c. 266, s. 298.

PART XI

QUASHING BY-LAWS

292. In this Part, "by-law" includes an order or resolution. Interpretation.
R.S.O. 1937, c. 266, s. 299.

293.—(1) The Supreme Court upon application of a resident of the municipality or of a person interested in a by-law of its council may quash the by-law in whole or in part for illegality. Proceedings to quash by-law.

(2) Notice of the application shall be served at least seven days before the return day of the motion. Service of notice.

(3) Before the application is made, the applicant or, if the applicant is a corporation, some person on its behalf, shall enter into a recognizance before a judge of the county or district court of the county or district in which the municipality is situate, with two sureties in the sum of \$100, conditioned to prosecute the application with effect and to pay any costs which may be awarded against the applicant. Recognizance.

(4) The judge may allow the recognizance upon the sureties making proper affidavits of justification, and after it is allowed, the recognizances with the affidavits shall be filed in the office of the Registrar of the Supreme Court. Allowance of recognizance.

(5) In lieu of the recognizance, the applicant may pay into court \$100, and the certificate of the payment into court shall be filed in the office of the Registrar. Deposit in court in lieu of recognizance.

(6) After the determination of the proceedings, the judge may order that the money paid into court be applied in payment of costs or be paid out to the applicant. R.S.O. 1937, c. 266, s. 300. Application of deposit.

294. A by-law, in respect of the passing of which a violation of any of the provisions of sections 198 to 200 has taken place, may be quashed. R.S.O. 1937, c. 266, s. 301. Quashing by-law for corrupt practice.

295.—(1) Where it is alleged that a by-law injuriously affects another municipality or any ratepayer of it, and that the by-law is illegal in whole or in part, the corporation of such other municipality or any ratepayer of it may apply to quash the by-law. Application to quash by-law affecting another municipality.

(2) Where the application is made by a municipal corporation, security for costs shall not be required. No security required from municipality.

(3) Where the application is based upon an allegation of a violation of any of the provisions of sections 198 to 200, either alone or in conjunction with any other ground of objection, the Inquiry by county or district judge where corrupt practices alleged.

Supreme Court may direct an inquiry as to the alleged violation to be had before a special examiner or a judge of the county or district court of the county or district in which the municipality is situate, and the witnesses upon the inquiry shall be examined upon oath.

Return of
evidence to
officer of
Supreme
Court.

(4) After the completion of the inquiry, the special examiner or the judge shall return the evidence taken before him to the proper officer of the Supreme Court, and the same may be read in evidence upon the motion to quash.

No act to
be done
under by-law
pending
inquiry.

(5) Where an order, directing an inquiry has been made under subsection 3 and a copy of it has been left with the clerk of the municipality, unless the Supreme Court otherwise orders, nothing shall be done under the by-law until the application is disposed of.

Other cases.

(6) In other cases the Court may direct that nothing shall be done under the by-law until the application is disposed of. R.S.O. 1937, c. 266, s. 302.

Time for
making
application
to quash.

296. An application to quash, in whole or in part, a by-law, except a money by-law registered under section 307, shall not be entertained unless made within one year after the passing of the by-law, but if the by-law required the assent of the electors and was not submitted for or did not receive such assent, the application may be made at any time. 1947, c. 69, s. 26.

PART XII

MONEY BY-LAWS

Interpre-
tation.

297.—(1) In this Part, "debt" includes liability and the borrowing of money. R.S.O. 1937, c. 266, s. 304 (1).

Idem.

(2) "Rateable property", when used in this Act or in any by-law heretofore or hereafter passed which directs the levying of a rate on the rateable property in the municipality or any part of it, includes business assessment within the meaning of *The Assessment Act*. R.S.O. 1937, c. 266, s. 304 (2); 1948, c. 59, s. 7.

Rev. Stat.,
c. 24.

Recitals,

298.—(1) A money by-law shall recite,

amount to
be raised
and object;

(a) the amount of the debt intended to be created, and in brief and general terms, the object for which it is to be created;

value of
the rateable
property;

(b) the amount of the whole rateable property of the municipality according to the last revised assessment roll, or, in the case of a county, the last revised and

equalized assessment rolls of the local municipalities of which the county is composed;

- (c) the amount of the debenture debt of the corporation, ^{amount of existing debt:} and how much, if any, of the principal or interest is in arrear;
- (d) the approval of the Department of Health as required ^{approval of Department of Health:} by subsection 2 of section 107 of *The Public Health Act*, if the by-law be for raising money for any of the purposes mentioned in section 101 or 106 of that Act; ^{Rev. Stat., c. 306.} R.S.O. 1937, c. 266, s. 305 (1).
- (e) the approval of the Municipal Board as required by ^{approval of Municipal Board,} section 67 of *The Ontario Municipal Board Act*. ^{Rev. Stat., c. 262.} 1939, c. 30, s. 17.

(2) The whole debt and the debentures to be issued therefor shall be made payable within the respective periods hereinafter mentioned at furthest from the time when the debentures are issued, ^{When debentures to be made payable.}

- (a) if the debt is for railways, harbour works or improvements, sewers, gas or waterworks, the purchase or improvement of parks or the erection of high, continuation or public school houses, public hospitals and the acquiring of land therefor, or for electric light, heat or power works or water privileges or land used in connection therewith, or for acquiring land for a drill-shed or armoury, in thirty years;
- (b) if the debt is for the establishment of a system of public scavenging or for the collection and disposal of ashes, refuse and garbage, in ten years;
- (c) if the debt is for the purchase of road-making machinery and appliances, in five years;
- (d) if the debt is for any other purpose, the whole debt, and the debentures to be issued therefor, shall be made payable in twenty years. R.S.O. 1937, c. 266, s. 305 (2).

(3) The by-law may provide that the principal may be repaid in annual instalments with interest annually or semi-annually upon the balances from time to time remaining unpaid. R.S.O. 1937, c. 266, s. 305 (5); 1944, c. 39, s. 22 (3); 1946, c. 60, s. 38 (2). ^{Repayment of principal.}

(4) In the cases provided for by subsection 3, the by-law shall provide for raising in each year in which an instalment becomes due by a special rate on all the rateable property in the municipality, a specific sum sufficient to pay it when and as it becomes due. R.S.O. 1937, c. 266, s. 305 (6); 1948, c. 59, s. 8. ^{Amount to be raised annually.}

By-law to
change mode
of issuing
debentures.

(5) The council may by by-law, without the assent of the electors, authorize a change in the mode of issue of the debentures, and may provide that the debentures be issued with coupons, instead of in amounts of combined principal and interest or *vice versa*, and where any debentures issued under the by-law have been sold, pledged or hypothecated by the council, upon again acquiring them, or at the request of any holder of them, may cancel them, and issue one or more debentures in substitution for them, and make such new debenture or debentures payable by the same or a different mode on the instalment plan, but no change shall be made in the amount payable in each year.

Debentures,
when to be
dated and
issued.

(6) All the debentures shall be issued at one time and within two years after the passing of the by-law unless, on account of the proposed expenditure for which the by-law provides being estimated or intended to extend over a number of years and of its being undesirable to have large portions of the money in hand unused and uninvested, in the opinion of the council it would be of advantage to so issue them, and in that case the by-law may provide that the debentures may be issued in sets of such amounts and at such times as the circumstances require, but so that the first of the sets shall be issued within two years, and all of them within five years, after the passing of the by-law.

Date of
debentures.

(7) All the debentures shall bear the same date, except where they are issued in sets, and in that case every debenture of the same set shall bear the same date.

Idem.

(8) Notwithstanding the provisions of the by-law, the debentures may bear date at any time within the period of two years or five years, as the case may be, mentioned in subsection 6.

Extension
of time
for issue.

(9) The Municipal Board, on the application of the council or of any person entitled to any of the debentures, or of the proceeds of the sale thereof, may extend the time for issuing the debentures beyond the two years, or the time for the issue of any set beyond the time authorized by the by-law.

Application
after time
expired.

(10) The extension may be made although the application is not made until after the expiration of the two years or of the time provided for the issue of the set.

Day when
by-law to
take effect.

(11) Unless the by-law names a later day when it is to take effect, it shall take effect on the day of its passing. R.S.O. 1937, c. 266, s. 305 (7-13).

Consolidation.

(12) Notwithstanding any other Act, the council may borrow sums for two or more purposes in one debenture by-law and provide for the issue of one series of debentures therefor. 1946, c. 60, s. 38 (3).

(13) The by-law shall provide that all the debentures or a portion thereof shall be redeemable at the option of the corporation on any date prior to maturity subject to the following provisions:

- (a) The by-law and every debenture that is so redeemable shall specify the place of payment and the value at which such debenture may be so redeemed; Redemption before maturity.
Place of payment and value.
- (b) The principal of every debenture that is so redeemable shall become due and payable on the date set for the redemption thereof, and from and after such date interest shall cease to accrue thereon where provision is duly made for the payment of the amount thereof; Interest.
- (c) Notice of intention so to redeem shall be sent by post at least 30 days prior to the date set for such redemption to the person in whose name the debenture is registered at the address shown in the Debenture Registry Book; Notice to registered owner.
- (d) At least 30 days prior to the date set for such redemption notice of intention so to redeem shall be published in *The Ontario Gazette* and in such other manner as, subject to the approval of the Municipal Board, the by-law provides; Publication of notice.
- (e) Where only a portion of the debentures issued under the by-law is so to be redeemed, such portion shall comprise only the debentures that have the latest maturity dates, and no debenture issued under the by-law shall be called for such redemption in priority to any such debenture that has a later maturity date; Order in which debentures to be redeemed.
- (f) Where a debenture is redeemed on a date prior to maturity, such redemption shall not affect the validity of any by-law by which special assessments are imposed or instalments thereof levied, the validity of such special assessments or levies, or the powers of the council to continue to levy and collect such special assessments and instalments thereof. 1939, 2nd Sess., c. 6, s. 2; 1940, c. 18, s. 10; 1944, c. 39, s. 22 (5). Effect of redemption.

299.—(1) The authority conferred upon municipalities by this Act and any other general or special Act to borrow or raise money for any purpose and to issue debentures therefor shall extend to and shall be deemed always to have extended to include power to borrow and raise such money and to issue such debentures expressed and payable in sterling money of Great Britain for such principal amount as the council may deem necessary to realize the sum required for such purpose. Debentures expressed in sterling.

Annual rates
for sterling
debentures.

(2) Where under the provisions of any by-law of a municipality debentures issued thereunder are expressed and made payable in sterling, the council may in such by-law or in any amending by-law, in lieu of providing for the raising in each year during the currency of the debentures specific sums sufficient to pay interest thereon and to meet sinking fund payments or instalments of principal falling due in such year, provide that there shall be raised such yearly amount as may be necessary for the said purposes and as the requirements for such purposes may from year to year vary.

Approval of
Municipal
Board.

(3) No by-law for the borrowing and raising of money or the issue of debentures expressed and payable in sterling shall be passed finally until approved by the Municipal Board. R.S.O. 1937, c. 266, s. 306.

Assent of
electors,
when re-
quired.

300.—(1) Except where otherwise provided by this or any other Act, a corporation shall not incur any debt the payment of which is not provided for in the estimates for the current year, unless a by-law of the council authorizing it has been passed with the assent of the electors. R.S.O. 1937, c. 266, s. 307 (1).

Premium
note.

(2) Where a corporation gives a premium note for fire insurance or enters into an arrangement to provide pensions under paragraph 48 of section 386 or grants a retiring allowance under section 257, it shall not be deemed to be incurring a debt the payment of which is not provided for in the estimates for the current year, as provided by subsection 1. R.S.O. 1937, c. 266, s. 307 (2); 1947, c. 69, s. 27 (1).

Exceptions.

(3) Subsection 1 shall not apply to a by-law passed,

(a) under section 302 or paragraph 66 of subsection 1 of section 388; or

(b) for borrowing money for any of the purposes mentioned in paragraph 29, 48 or 53 of section 386, or in paragraph 84, 85 or 86 of subsection 1 of section 388; or

(c) under *The Local Improvement Act*; or

(d) by the council of a county, or of a city which forms part of a county for judicial purposes, for raising money for erecting, rebuilding, enlarging, furnishing and equipping the court house and offices to be used in connection therewith, a jail, a jailer's residence and a registry office, and for acquiring such land and buildings as may be necessary or convenient for such purposes; or

Rev. Stat.,
c. 215.

- (e) by the council of a city or a separated town for raising such sum as is required to pay its share of the debt of the county as agreed upon or determined by arbitration; or
- (f) by the council of a city with the approval of the Municipal Board for raising such sum as may be required to pay its share of the cost of constructing or reconstructing a bridge over any stream which constitutes a dividing line between the city and any other municipality or of reconstructing any existing bridge within the municipality; but the aggregate amount to be raised for all of such purposes in any one year shall not be more than \$10,000 where the city has a population of not more than 20,000; or \$15,000 where the city has a population of more than 20,000 and not more than 100,000; or \$20,000 where the city has a population of more than 100,000; or
- (g) by the council of any municipality with the approval of the Municipal Board for borrowing such sum or sums as may be required to pay or defray the cost or share of the cost of any work or improvement which by the terms of any order of the Board of Transport Commissioners for Canada or of the Municipal Board the municipality is or has been authorized or required to undertake or pay, or of any work or improvement which, in the opinion of the Municipal Board, is or has been rendered necessary or expedient owing to the construction of any work or improvement ordered by either of the said boards; but where any such work or improvement is or has been merely authorized, but not required to be undertaken by the municipality, no sum or sums may be borrowed hereunder unless the work was undertaken with the approval of the Municipal Board; or
- (h) by the council of an urban municipality for raising such sum as may be required for the purchase of a site in the municipality for an armoury or drill-shed for any militia or volunteer corps having its headquarters in the municipality, if the by-law is passed by a vote of two-thirds of all the members of the council; or
- (i) for borrowing money for any of the purposes mentioned in section 56 or 58 of *The Public Schools Act*, or section 48 of *The High Schools Act*, or subsection 2 of section 3 of *The Continuation Schools Act*; or

Rev. Stat.,
cc. 316, 165
66.

- (j) for borrowing a sum not exceeding \$5,000 for the purpose of making a grant to the University of Toronto; or
- (k) under section 480; or
- (l) for borrowing any sum or incurring any debt which under *The Public Health Act* may be borrowed or incurred without the assent of the electors. R.S.O. 1937, c. 266, s. 307 (3); 1939, 2nd Sess., c. 6, s. 3; 1944, c. 39, s. 23; 1946, c. 60, s. 39; 1947, c. 69, s. 27 (3); 1948, c. 59, s. 9; 1949, c. 61, s. 7.

Rev. Stat.,
c. 306.

Contracts
for supply
of public
utility.
Rev. Stat.,
c. 320.

301.—(1) A municipal corporation with the assent of the electors may enter into a contract for the supply of a public utility as defined in *The Public Utilities Act* to the municipal corporation for its use or for resale or to the inhabitants thereof for their use for any period not exceeding 10 years and for renewing such contract from time to time for further periods not exceeding 10 years at any one time.

Where
particular
areas only
are bene-
fited.

(2) Where a municipal corporation enters into a contract for the supply of a public utility for its use and such use is confined to a particular area of the municipality, the council may levy a special annual rate on all the rateable property in such area to defray the cost thereof. 1944, c. 39, s. 24.

Special
power of
county to
borrow.

302.—(1) A county council may in any year borrow any sum or sums not exceeding in the whole \$20,000 over and above what is required for its ordinary expenditure and over and above any sum which the council is by this or any other Act expressly authorized to borrow without the assent of the electors.

Special
power of
county to
borrow for
hospital
purposes.

(2) A county council may also borrow without the assent of the electors a sum not exceeding \$50,000 by the issue of debentures payable within 30 years for the purpose of making a grant for the erection, establishment, maintenance or equipment of a public hospital in any municipality, including a city or separated town, in the county.

Passing of
by-law.

(3) Subject to subsection 4, the by-law shall be passed at a meeting specially called for the purpose of considering it and held not less than six weeks after the first publication of a notice of the day appointed for the meeting which shall be published once a week for four successive weeks, and shall state the amount to be borrowed, and the purpose for which it is to be borrowed.

Adjourned
meeting.

(4) The by-law may be passed at any regular or special meeting to which the consideration of it may be adjourned. R.S.O. 1937, c. 266, s. 309.

303.—(1) If the Municipal Board is of opinion that the current rate of interest so differs from the rate of interest payable on any municipal debentures which remain unsold or undisposed of that the sale or disposal thereof may substantially decrease or increase the amount required to be provided under the by-law under which such debentures were issued, the Municipal Board may authorize the council, without the assent of the electors, to pass a by-law to amend such by-law so as to provide for,

When rate of interest may be varied.

- (a) a different rate of interest;
- (b) a change in the amount to be raised annually and, if necessary, in the special assessments and levies;
- (c) such other changes in the said by-law or any other by-law as to the Municipal Board may seem necessary to give effect thereto;
- (d) the issue of new debentures to bear interest at the amended rate in substitution and exchange for such first-mentioned debentures; and
- (e) the cancellation of such first-mentioned debentures upon the issue of such new debentures in substitution and exchange therefor.

(2) For the purposes of this section, the hypothecation of debentures under section 337 at any time heretofore or hereafter made shall not constitute a sale or other disposal thereof.

Hypothecation not a sale under this section.

(3) The council may by one by-law authorized under subsection 1 amend two or more by-laws and provide for the issue of one series of new debentures in substitution and exchange for the debentures issued thereunder.

Consolidation of debentures.

(4) A by-law passed under this section shall not affect the validity of any by-law by which special assessments are imposed or instalments thereof levied, the validity of such special assessments or levies, or the powers of the council to continue to levy and collect such special assessments and instalments thereof. 1938, c. 22, s. 6 (1).

Special assessments and levies.

304.—(1) Where part only of a sum of money provided for by a by-law has been raised, the council may repeal the by-law as to any part of the residue, and as to a proportionate part of the amounts to be raised annually.

Repeal of by-law, when part only of money raised.

(2) The repealing by-law shall recite the facts on which it is founded, shall be appointed to take effect on the 31st day of December in the year of its passing, shall not affect any rates

When to take effect.

due, or penalties incurred before that day and shall not take effect until approved by the Municipal Board. R.S.O. 1937, c. 266, s. 311.

Until debt paid certain by-laws can not be repealed.

305. Subject to section 304, after a debt has been contracted under a by-law, the council shall not, until the debt and interest have been paid, repeal the by-law or any by-law appropriating for the payment of the debt or the interest, the surplus income from any work or any interest therein, or money from any other source, and shall not alter any such by-law so as to diminish the amount to be raised annually, and shall not apply to any other purpose any money of the corporation which has been directed to be applied to such payment. R.S.O. 1937, c. 266, s. 312.

Penalty for neglect of officer to carry out by-law.

306. Any officer of a corporation, whose duty it is to carry into effect any of the provisions of a money by-law who neglects or refuses to do so, under colour of a by-law illegally attempting to repeal or amend it, so as to diminish the amount to be raised annually under it, shall be guilty of an offence and liable to a penalty of not more than \$100. R.S.O. 1937, c. 266, s. 313.

REGISTRATION OF MONEY BY-LAWS

Money by-laws to be registered.

307.—(1) Within four weeks after the passing of a money by-law, the clerk shall register a duplicate original or a copy of it certified under his hand and the seal of the corporation, in the case of a county, in the registry division in which the county town is situate, and, in the case of a local municipality, in the registry division in which it is situate, or if the municipality comprises parts of two or more registry divisions in either of them.

Penalty.

(2) A clerk who neglects to perform within the prescribed period the duty imposed upon him by subsection 1 shall incur a penalty of \$200, recoverable by action, and, in default of payment, shall be liable to imprisonment for such period not exceeding twelve months, as the court may direct. R.S.O. 1937, c. 266, s. 314 (1, 2).

Exception as to certain by-laws. Rev. Stat., cc. 246, 215.

(3) It shall not be obligatory to register a by-law for the issue of debentures passed under *The Municipal Drainage Act* or under *The Local Improvement Act*. R.S.O. 1937, c. 266, s. 314 (4).

Application to quash registered by-law, when to be made.

(4) Subject to section 64 of *The Ontario Municipal Board Act*, every by-law registered in accordance with subsection 1, or before the sale or other disposition of the debentures issued under it, and the debentures shall be valid and binding, according to the terms thereof, and the by-law shall not be

quashed, unless within one month after the registration in the case of by-laws to which subsection 3 applies, and in the case of other by-laws, within three months after the registration, an application or action to quash the by-law is made to or brought in a court of competent jurisdiction, and a certificate under the hand of the proper officer of the court and its seal, stating that such application has been made or action brought is registered in such registry office within such period of three months, or one month, as the case may be. R.S.O. 1937, c. 266, s. 314 (5); 1947, c. 69, s. 28 (1); 1950, c. 46, s. 13.

(5) After the expiration of the period prescribed by subsection 4, if no application or action to quash the by-law is made or brought, the by-law shall be valid and binding according to its terms. Time when by-law to be valid and binding.

(6) If an application or action to quash the by-law is made or brought within the period prescribed by subsection 4, but part only of the by-law is sought to be quashed, the remainder of it, if no application or action to quash it is made or brought within that period, shall after the expiration of that period be valid and binding according to its terms. Quashing part of by-law.

(7) If the application or action is dismissed in whole or in part, a certificate of the dismissal may be registered, and after such dismissal and the expiration of the period prescribed by subsection 4, if it has not already expired, the by-law, or so much of it as is not quashed shall be valid and binding according to its terms. Dismissal of application.

(8) Nothing in this section shall make valid a by-law, which requires, but has not received, the assent of the electors, or a by-law where it appears on the face of it that any of the provisions of subsections 2 and 4 of section 298 have not been substantially complied with. R.S.O. 1937, c. 266, s. 314 (6-9). Illegal by-laws not validated.

(9) Failure to register a by-law as prescribed by this section shall not invalidate it. R.S.O. 1937, c. 266, s. 314 (10); 1947, c. 69, s. 28 (2). Failure to register.

PART XIII

YEARLY RATES AND ESTIMATES

308.—(1) The council of every municipality shall in each year levy on the whole rateable property according to the last revised assessment roll a sum sufficient to pay all debts of the corporation, whether of principal or interest, falling due within the year, but shall not assess and levy in any year more than two and a half cents in the dollar on the assessed value of such property, according to the last revised assessment roll, exclusive Yearly rates to be levied, sufficient to pay all debts payable within the year. Limit of rates.

of school and local improvement rates and exclusive of any rate not exceeding two mills in the dollar for granting aid to public hospitals for the purposes mentioned in paragraph 29 of section 386.

Where
aggregate
rates in-
sufficient.

(2) If the aggregate amount of the rates necessary for payment of the current annual expenditure of the corporation, and the principal and the interest of such debts exceeds the rate mentioned in subsection 1, the council shall assess and levy such further sum as may be necessary to discharge such debts, but shall not contract any further debt until the annual rates are reduced to that rate without the approval of the Municipal Board which may be given if it is shown to the satisfaction of the Board that it is in the interests of the corporation and the ratepayers thereof that it should be authorized to incur such further debt and to levy any additional rate necessary to discharge it. R.S.O. 1937, c. 266, s. 315.

Where
rates to be
levied on
full values.

309.—(1) Notwithstanding anything contained in this or any other general or special Act, or in any order of the Municipal Board, or in any municipal by-law or resolution, or in any contract, or other instrument, a municipal rate levied for any of the purposes set out in paragraph 29 of section 386 or in section 387 or for unemployment relief purposes or for any educational purpose included in the county levy shall be levied upon the full value of all the rateable property in the municipality, and no fixed assessment or partial or total exemption from assessment or taxation shall apply thereto, except as provided in section 4 and subsection 3 of section 34 of *The Assessment Act*. 1939, 2nd Sess., c. 6, s. 4, *part*; 1946, c. 60, s. 41 (1).

Rev. Stat.,
c. 24.

Rates to be
excluded.

(2) In calculating whether the limit fixed by subsection 1 of section 308 has been reached, any rates levied for any of the purposes set out in subsection 1 shall be excluded from such calculation. 1939, 2nd Sess., c. 6, s. 4, *part*; 1946, c. 60, s. 41 (2).

Fixed as-
sessment
exemptions
to be
included.

(3) The council of a county in levying a rate for any of the purposes set out in subsection 1 shall add to the amount of the equalized assessment of each local municipality within the county any amounts exempted therefrom by reason of a fixed assessment. 1940, c. 18, s. 11; 1946, c. 60, s. 41 (3).

Federation
of Agri-
culture,
special rate.

310.—(1) The council of a township may, subject to the approval of the Department, by by-law assess and levy a special rate not exceeding one-half of one mill upon the ratepayers of the township who are entered on the assessment roll as farmers as the annual membership fees of such persons in the Federation of Agriculture.

(2) Any person to whom subsection 1 applies may within 30 days after delivery of the notice of assessment in writing notify the assessor that he objects to the assessment provided for in subsection 1 and thereupon the assessor shall amend the assessment roll by striking out the assessment made under subsection 1 in respect of such person and shall write his name or initials against such amendment and deliver a notice of assessment amended accordingly to such person. 1946, c. 60, s. 42.

How special rate may be avoided.

(3) The rate mentioned in subsection 1 shall be assessed, levied and collected in the same manner as local rates and shall be similarly calculated upon the assessments as finally revised and shall be entered in the collector's roll in a special column the heading whereof shall be designated "Federation of Agriculture Membership Fees", but shall not form a charge upon land nor be subject to penalty for non-payment.

Nature of special rate.

(4) The township treasurer shall deposit the sums collected under this section in a special account and shall from time to time upon demand pay such sums to the treasurer of the Federation of Agriculture for the county in which the township is situate.

Deposit of sums collected.

(5) The township treasurer shall on the date fixed by statute for the return of the collector's roll prepare and forward to the treasurer of the Federation of Agriculture for the county in which the township is situate a list of the names of the rate-payers to whom the by-law mentioned in subsection 1 is applicable and whose rates thereunder have not been collected and thereupon the duty of the township treasurer to collect such rates shall terminate.

Termination of duty to collect.

(6) The township treasurer shall deduct from the sums collected such amounts for the services rendered as may be authorized in writing by the treasurer of the Federation of Agriculture for the county in which the township is situate and shall pay such amounts into the general funds of the township. 1943, c. 16, s. 5, *part*.

Payment for services.

311.—(1) The council of every municipality shall in each year prepare and adopt estimates of all sums required during the year for the purposes of the municipality, including the sums required by law to be provided by the council for school purposes and for any board, commission or other body, and such estimates shall set forth the estimated revenues and expenditures in such detail and according to such form as the Department may from time to time prescribe. R.S.O. 1937, c. 266, s. 316 (1).

Yearly estimates and contents.

Allowances
to be
made in
estimates.

(2) In preparing the estimates the council shall make due allowance for a surplus of any previous year which will be available during the current year and shall provide for any operating deficit of any previous year and for the cost of collection, abatement of and discount on taxes and uncollectable taxes and may provide for taxes which it is estimated will not be collected during the year. 1944, c. 39, s. 25.

Rating
by-laws.

(3) One by-law or several by-laws for levying the rates may be passed as the council may deem expedient.

Form of
estimates.

(4) The Department may prescribe the form of estimates to be prepared by the council and may from time to time vary the same.

Yearly
estimates
from other
boards, etc.

(5) The council may by by-law require that the estimates for the current year of every board, commission or other body for which the council is by law required to levy any rate or provide money, shall be submitted to the council on or before the 1st day of March in each year, and that such estimates shall be in the form and give the particulars which the by-law prescribes. R.S.O. 1937, c. 266, s. 316 (3-5).

Reserve
funds.
Rev. Stat.,
c. 96.

312.—(1) Every municipality as defined in *The Department of Municipal Affairs Act*, and every board, commission, body or local authority established or exercising any power or authority with respect to municipal affairs under any general or special Act in an unorganized township or in unsurveyed territory, may in each year with the approval of the Department provide in the estimates for the establishment or maintenance of a reserve fund for use in providing public works or projects or replacements, renewals or improvements thereof, provided that where the approval of the council is required by law for a capital expenditure or the issue of debentures of a local board, the approval of the council of a provision in the estimates of such local board for a reserve fund shall be obtained. 1946, c. 60, s. 43 (1).

Investment
of reserve
fund
moneys.

(2) The moneys raised for a reserve fund established under subsection 1 shall be paid into a special account and may with the approval of the Department be invested in such securities as a trustee may invest in under *The Trustee Act*, or be paid to the Treasurer of Ontario in which case the provisions of sections 327 and 328 shall *mutatis mutandis* apply, and the earnings derived from the investment of such moneys shall form part of the reserve fund. 1943, c. 16, s. 6, *part*; 1947, c. 69, s. 29.

Rev. Stat.,
c. 400.

Expending
of fund
moneys.

(3) The moneys raised for a reserve fund established under subsection 1 shall not be expended, pledged or applied to any purpose without the approval of the Department. 1943, c. 16, s. 6, *part*.

313.—(1) Where the amount collected falls short of the sum required, the council may direct that the deficiency be made up from any unappropriated fund, or, if there is no such fund, the deficiency may be deducted proportionately from the sums estimated, or from any one or more of them. If the amount collected falls short.

(2) Where the amount collected exceeds the estimates, the surplus shall form part of the general funds, and shall be at the disposal of the council, unless otherwise specially appropriated. R.S.O. 1937, c. 266, s. 317. When sums collected exceed estimate.

314. The rates imposed for any year shall be deemed to have been imposed and to be due on and from the 1st day of January of such year unless otherwise expressly provided by the by-law by which they are imposed. R.S.O. 1937, c. 266, s. 318. Rates to be due on January 1st.

PART XIV

RESPECTING FINANCES

ACCOUNTS AND INVESTMENTS

315. Money received by any municipal corporation from the sale or hypothecation of any debentures shall be kept in a separate account and shall be used only for the purposes for which it was raised and shall not be applied towards payment of the current or other expenditure of the municipality. R.S.O. 1937, c. 266, s. 319. Application of proceeds of debentures.

316.—(1) Every council shall keep a separate account of every debt and shall also keep two additional accounts in respect thereof, one for the interest and the other for the sinking fund or the instalments of principal, and both to be distinguished from all other accounts by a prefix designating the purpose for which the debt was contracted, and the accounts shall be kept so as to exhibit at all times the state of every debt, and the amount of money raised, obtained and appropriated for payment of it. Accounts, how to be kept.

(2) The council of a city may by by-law provide and direct that instead of a separate account of the interest upon every debt being kept, a consolidated account of the interest upon all debts may be kept, but which consolidated account shall be so kept that it will be possible to determine therefrom the true state of the interest account upon every debt and that provision has been made to meet the interest upon every debt. Consolidated interest account.

(3) The council of a city may by by-law provide that instead of a separate bank account being kept for the sinking fund of every debt which is to be paid by means of a sinking Consolidated sinking fund account.

fund, a consolidated bank account may be kept in which there may be deposited the sinking funds of all debts which are to be paid by such means, but which consolidated bank account shall be so kept that the requirements of the sinking fund of every debt are duly provided for. R.S.O. 1937, c. 266, s. 320.

Application
of surplus
money.

317. If, in any year, after paying the interest and appropriating the necessary sum to the sinking fund or in payment of the instalments, there is a surplus properly applicable to such debt, it shall so remain until required in due course for the payment of interest or for the sinking fund or in payment of the principal. R.S.O. 1937, c. 266, s. 321.

Where
surplus in
sinking fund.

318. Notwithstanding the provisions of any general or special Act, where the revenue derived from the investment of sinking funds together with other accretions exceeds the aggregate requirements of all by-laws applicable thereto and the excess is represented in a consolidated surplus account or other separate funds, the commissioner of finance, the treasurer of the municipality or the trustees of the sinking fund, as the case may be, may with the approval of the council and the Municipal Board apply the amount of such surplus to the sinking fund of each debt proportionately as the amount of the sinking fund of each such debt bears to the aggregate of the sinking funds of all such debts and notwithstanding sections 321 and 322 the amount of such surplus not so applied may with the approval of the council and the Municipal Board be transferred to the general funds of the municipality. 1939, c. 30, s. 18, *part*; 1946, c. 60, s. 44.

Where
amount in
sinking fund
sufficient.

319. Notwithstanding the provisions of any general or special Act, if and when the amount in a sinking fund is sufficient, with the estimated revenue therefrom, to pay the principal of the debt as it becomes due, the council with the approval of the Municipal Board may not be required to raise or provide any further sum with respect to such debt. 1939, c. 30, s. 18, *part*.

Notice of
appoint-
ment.

320. Notice of an appointment for the hearing by the Municipal Board of an application for approval under section 318 or 319 shall be given to such persons and in such manner as the Municipal Board may direct. 1939, c. 30, s. 18, *part*.

Money
levied for a
sinking fund
not to be
diverted.

321. No money collected for the purpose of a sinking fund shall be applied towards paying any part of the current or other expenditure of the corporation. R.S.O. 1937, c. 266, s. 322.

322.—(1) If the council applies any money raised for a special purpose or collected for a sinking fund in paying current or other expenditure, the members who vote for such application shall be personally liable for the amount so applied, which may be recovered in any court of competent jurisdiction.

Liability of members for diversion of sinking fund.

(2) If the council, upon the request in writing of a ratepayer, refuses or neglects for one month to bring an action therefor, the action may be brought by any ratepayer on behalf of himself and all other ratepayers.

Action by ratepayer.

(3) The members who vote for such application shall be disqualified from holding any municipal office for two years. R.S.O. 1937, c. 266, s. 323.

Disqualification.

323.—(1) The treasurer of a municipality in which any sum is required by law to be raised for a sinking fund, shall prepare and lay before the council in every year, previous to the striking of the annual rate, a statement showing what amount will be required for that purpose.

Statement of treasurer as to amount required for sinking fund.

(2) For every contravention of this section, the treasurer shall be guilty of an offence and liable to a penalty of not more than \$25. R.S.O. 1937, c. 266, s. 324.

Penalty.

324. If the council neglects in any year to levy the amount required to be raised for a sinking fund, each member of the council shall be disqualified from holding any municipal office for two years, unless he shows that he made reasonable efforts to procure the levying of such amount. R.S.O. 1937, c. 266, s. 325.

Penalty where council neglects to levy for sinking fund.

325. Subject to sections 326 and 327, the council shall invest the sinking fund in such securities as a trustee may invest in under *The Trustee Act*, or with the approval of the Municipal Board in any debentures of the corporation; provided that the Board shall not approve of any greater portion or percentage than 25 per cent of the total sinking fund being invested at any one time in debentures of the corporation. R.S.O. 1937, c. 266, s. 326.

Investment of sinking fund.
Rev. Stat., c. 400.

326. The Municipal Board, on the application of a council, may direct that any part of the sinking fund, instead of being invested as hereinbefore provided, shall from time to time be applied to the redemption of any of the debentures to the payment of which such sinking fund is applicable, to be selected as provided by the order of the Board, at such value as may be agreed on by the council and the holders of the debentures. R.S.O. 1937, c. 266, s. 327.

Redemption of debentures with sinking fund.

Payment of sinking fund into Provincial Treasury.

327.—(1) A council may provide by a money by-law that the annual amount to be levied on account of the sinking fund shall be paid by the treasurer of the municipality to the Treasurer of Ontario, and if the by-law does not provide for such payment, the council may pass a by-law providing therefor.

Money so received to form part of Consolidated Revenue Fund.

(2) All money received by the Treasurer of Ontario under the provisions of this section shall form part of the Consolidated Revenue Fund, and a statement of the amount at the credit of each municipality shall be set forth annually in the Public Accounts of Ontario.

Sinking fund may be invested in the debentures to be redeemed.

(3) The Treasurer of Ontario may invest the amount at the credit of a municipality or any part thereof in the debentures of such municipality, to redeem which such sinking funds were paid to the Treasurer.

Amount payable into sinking fund to be a debt to the Treasurer.

(4) The amount payable in any year into the sinking fund which under the provisions of the by-law is to be paid to the Treasurer of Ontario shall be deemed a debt due to him, and in default of payment thereof, he may sue therefor in his own name as for a debt due to the Crown in any court of competent jurisdiction.

Disposition of sinking fund paid to Treasurer.

(5) Upon the maturity of the debentures to redeem which a sinking fund has been paid to the Treasurer of Ontario, the amount to the credit of the sinking fund shall be payable out of the Consolidated Revenue Fund upon the order of the Treasurer to the holder of the debentures or to his agent or into a bank or otherwise according to the tenor of the debentures or as the Treasurer may direct. R.S.O. 1937, c. 266, s. 328.

Fixing current rate of interest on debentures, etc., held by Treasurer.

328. The rate of interest to be paid or credited to any municipal corporation by the Treasurer of Ontario upon municipal securities, sinking funds or debentures deposited with or in the hands of the Treasurer of Ontario, either as an investment by the Province or for investment on behalf of a municipal corporation, shall be the current rate of interest as fixed from time to time by the Lieutenant-Governor in Council, to be based upon the average rate of interest actually payable upon the moneys borrowed on behalf of Ontario as a Provincial loan and then outstanding. R.S.O. 1937, c. 266, s. 329.

Disposition of "The Ontario Municipalities Fund" moneys.

329. Where a corporation has surplus money derived from "The Ontario Municipalities Fund" or from any other source, which is set apart for educational purposes and invested, as well as any other money held by the corporation for or appropriated by it to such purposes, in the form of securities or loans or applied as authorized by this Act, the

council may, with the approval of the Municipal Board, dispose of such investments and apply the proceeds thereof directly or by means of a scheme of amortization in aid of schools in the municipality. 1941, c. 35, s. 9.

330. The council of a township may apportion among the public school sections in the township, the principal or interest of any investments for public school purposes, according to the salaries paid to the teachers, or the average attendance of pupils in the respective school sections during the next preceding year, or according to the assessed value of the property in the section, or by an equal division among the sections. Apportionment of public school money among school sections in townships. R.S.O. 1937, c. 266, s. 331.

331. A member of a council shall not take part in, or be a party to, the investment of any such money, otherwise than as authorized by this Act, and if he does so he shall be personally liable for any loss sustained by the corporation in respect of the investment. Prohibition as to unauthorized investment. R.S.O. 1937, c. 266, s. 332.

COMMISSION OF INQUIRY INTO FINANCES

332.—(1) The Lieutenant-Governor in Council, upon the recommendation of the Minister of Municipal Affairs, may issue a commission to inquire into the financial affairs of any municipality, or local board thereof, and any matter connected therewith, and the commissioner shall have all the powers of a commissioner under *The Public Inquiries Act*. Commission of financial inquiry. Rev. Stat., c. 308.

(2) A commission may be recommended at the instance of the Department, or upon the request in writing of not less than one-third of the members of a council, or of not less than 50 ratepayers assessed as owners and resident in the municipality. When commission may issue.

(3) The expenses of and incidental to the execution of the commission, including the fees and disbursements of the commissioner, shall be fixed and certified by the Minister, and forthwith be paid by the municipality. Expenses of commission. R.S.O. 1937, c. 266, s. 333.

DEBENTURES

333.—(1) Subject to subsection 3, a debenture or other like instrument shall be sealed with the seal of the corporation, and signed by the head of the council or by some other person authorized by by-law to sign it, and by the treasurer. Debentures, how to be executed.

(2) A debenture may have coupons for the interest attached to it, which shall be signed by the treasurer and his signature to them may be written, stamped, lithographed or engraved. Execution of coupons. R.S.O. 1937, c. 266, s. 334 (1, 2).

Execution
of debentures.

(3) In a city having a population of not less than 90,000, the signature of the head of the council of the corporation to all debentures or other like instruments issued by the corporation may be written, stamped, lithographed or engraved and if such debentures or other like instruments are countersigned in writing by the deputy treasurer, the signature of the treasurer thereon may be stamped, lithographed or engraved. R.S.O. 1937, c. 266, s. 334 (3); 1950, c. 46, s. 14.

Full amount
of debentures
sold at a discount
recoverable.

(4) A debenture may be made payable to bearer or to a named person or bearer and the full amount of it shall be recoverable notwithstanding its negotiation by the corporation at a discount.

Signature to
debentures.

(5) Any debenture heretofore or hereafter issued shall be sufficiently signed by the head of the council if it bears the signature, as hereinbefore provided in this section, of the person who was the head of the council either at the date of the debenture or at the time when it was issued. R.S.O. 1937, c. 266, s. 334 (4, 5).

Debentures
on which
payment has
been made
for one year
to be valid.

334. Where the interest for one year or more on the debentures issued under a by-law and the principal of any debenture which has matured has been paid by the corporation, the by-law and the debentures issued under it shall be valid and binding upon the corporation. R.S.O. 1937, c. 266, s. 335.

Mode of
transfer
may be pre-
scribed.

335.—(1) Where a debenture contains or has endorsed upon it a provision to the following effect:

This debenture, or any interest therein, shall not, after a certificate of ownership has been endorsed thereon by the treasurer of this corporation, be transferable, except by entry by the treasurer in the Debenture Registry Book of the Corporation at the.....
.....of.....

Debenture
Registry
Book.

the treasurer, on the application of the owner of the debenture or of any interest in it, shall endorse upon the debenture a certificate of ownership and shall enter in a book, to be called the Debenture Registry Book, a copy of the certificate and of every certificate which is subsequently given and shall also enter in such book a memorandum of every transfer of such debenture.

Require-
ments as to
endorsing
certificate
of ownership.

(2) A certificate of ownership shall not be endorsed on a debenture except by the written authority of the person last entered as the owner of it, or of his executors or administrators, or of his or their attorney, which authority shall be retained and filed by the treasurer.

Transfer by
entry in
registry
book.

(3) After a certificate of ownership has been endorsed, the debenture shall be transferable only by entry by the treasurer in the Debenture Registry Book, as and when a transfer of the

debenture is authorized by the then owner of it or his executors or administrators or his or their attorney. R.S.O. 1937, c. 266, s. 336.

336. Where a debenture is defaced, lost or destroyed, the council may by by-law provide for the replacing of the debenture on the payment of such fee and on such terms as to evidence and indemnity as the by-law may provide. 1944, c. 39, s. 27. Replacement of lost debentures.

337.—(1) A council, pending the sale of a debenture, or in lieu of selling it, may by by-law or resolution authorize the head and treasurer to raise money by way of loan on the debenture and to hypothecate it for the loan. Borrowing by hypothecation of debentures.

(2) The proceeds of every such loan shall be applied to the purposes for which the debenture was issued, but the lender shall not be bound to see to the application of the proceeds, and, if the debenture is subsequently sold, the proceeds of the sale shall be applied first in repayment of the loan. Application of proceeds of loan.

(3) Subject to subsection 2, the redemption of a debenture heretofore or hereafter hypothecated shall not be deemed to have prevented and shall not prevent the subsequent sale thereof. R.S.O. 1937, c. 266, s. 337. Hypothecation not to prevent subsequent sale of debentures.

338.—(1) Subject to subsection 2, a corporation shall not make or give any bond, bill, note, debenture or other undertaking for the payment of a less amount than \$50, and any such bond, bill, note or debenture shall be void. R.S.O. 1937, c. 266, s. 338 (1). Debentures, etc., not to be for less sums than \$50.

(2) A debenture issued under the authority of any by-law providing for payment of principal and interest together yearly so computed and apportioned that the sum of both principal and interest is an annual sum of not less than \$50, whether the debenture is issued with or without coupons, shall be deemed to be a debenture of not less than \$50 within the meaning of this section, and all debentures so issued under such a by-law and otherwise legal shall be valid. R.S.O. 1937, c. 266, s. 338 (2); 1946, c. 60, s. 45. Proviso as to debentures issued for sums which include principal and interest.

339.—(1) Where on the sale of the whole or any part of an issue of debentures, a premium is derived and moneys in addition to the principal sum of the debentures are required for the purpose or purposes for which the debentures were issued, the premium shall be applied to such purpose or purposes. Where debentures sold at premium.

Idem.

(2) Where the whole or any part of the premium is not required for the purpose or purposes for which the debentures were issued, the amount of the premium or of the part not so required shall be applied as follows:

(a) Where the amount is sufficient to redeem one or more debentures of the latest maturity, it shall be applied for that purpose.

(b) Where the amount is not sufficient to redeem a debenture, or where a balance remains after redemption as required by clause *a*, the amount or the balance, as the case may be, shall be applied on the first annual payment of principal and interest on the debentures, and the levy made in the first year for such purpose shall be reduced accordingly.

Where sold
at discount.

(3) Where on the sale of the whole or any part of an issue of debentures of a municipality a deficit is sustained and the amount of the deficit or any part thereof is required for the purpose or purposes for which the debentures were issued and was not fully estimated and provided for in the amount of debenture issue, the amount of the deficit or the part so required shall be added to the sum to be raised for the first annual payment of principal and interest on the debentures, and the levy made in the first year for such purpose shall be increased accordingly. 1950, c. 46, s. 15.

Tenders for
debentures.

340. When a municipal corporation intends to borrow money on debentures under this or any other Act, the council may prior to the issue thereof call for tenders for the amount of money required and the person tendering shall specify the rate of interest the debentures shall bear when issued at par. 1947, c. 69, s. 30.

TEMPORARY LOANS

Current
borrowings.

341.—(1) A council may by by-law either before or after the passing of the by-law for imposing the rates for the current year authorize the head and treasurer to borrow from time to time by way of promissory note such sums as the council may deem necessary to meet, until the taxes are collected, the current expenditures of the corporation for the year, including the amounts required for sinking fund, principal and interest falling due within the year upon any debt of the corporation, school purposes, special rates purposes, and for any board, commission or body and other purposes for which the corporation is required by law to provide.

Limit upon
borrowings.

(2) The amount which may be borrowed in any year for the purposes mentioned in subsection 1 shall not, except with the

approval of the Municipal Board, exceed 70 per cent of the total amount of the estimated revenues of the corporation as set forth in the estimates adopted for the year.

(3) Until such estimates are adopted, the limitation upon borrowing prescribed by subsection 2, shall temporarily be calculated upon the estimated revenues of the corporation as set forth in the estimates adopted for the next preceding year. Temporary application of estimates of preceding year.
R.S.O. 1937, c. 266, s. 339 (1-3).

(4) For the purposes of subsections 2 and 3, estimated revenues shall not include revenues derivable or derived from the sale of assets, borrowings or issues of debentures or from a surplus including arrears of taxes and proceeds from the sale of assets. 1944, c. 39, s. 28. Exclusion from estimated revenues.

(5) The lender shall not be bound to establish the necessity of borrowing the sum lent or to see to its application. Lender not bound by application of borrowings, etc.

(6) Any promissory note made under the authority of this section shall be executed in the same manner as a debenture as provided in subsection 1 of section 333, and may be expressed so as to bear interest only upon such money as may be borrowed thereon from the time when such money is actually lent. Execution of promissory notes.

(7) The council may by by-law provide or authorize the head and treasurer to provide by agreement that all or any sums borrowed for any or all of the purposes mentioned in this section shall, with interest thereon, be a charge upon the whole or any part or parts of the revenues of the corporation for the current year and for any preceding years as and when such revenues are received; provided that such charge shall not defeat or affect and shall be subject to any prior charge then subsisting in favour of any other lender. Creation of charge.

(8) Any agreement entered into under subsection 7 shall be sealed with the corporate seal and signed by the head and treasurer. Execution of agreements.

(9) If the council authorizes the borrowing of or borrows any larger amount than is permitted under this section, every member who knowingly votes therefor shall be disqualified from holding any municipal office for two years. Penalty for excess borrowings.

(10) If the council authorizes the application of any revenues of the corporation charged under the authority of this section otherwise than in repayment of the loan secured by such charge the members who vote for such application shall be personally liable for the amount so applied, which may be recovered in any court of competent jurisdiction. Penalty for misapplication of revenues by council.

(11) If any member of the council or officer of the corporation applies any revenues so charged otherwise than in repayment of the loan secured by such charge, he shall be personally Penalty for misapplication of revenues by officials.

liable for the amount so applied, which may be recovered in any court of competent jurisdiction.

Saving
clauses as to
penalties.

Rev. Stat.,
c. 96.

(12) Subsections 9, 10 and 11 shall not apply to a council or any member of a council or officer of a corporation acting under an order or direction issued or made under the authority of Part III of *The Department of Municipal Affairs Act*, nor shall they apply in any case where application of the revenues of the corporation is made with the consent of the lender in whose favour a charge exists. R.S.O. 1937, c. 266, s. 339 (5-12).

Temporary
advances.

342. Where by this or any other Act power is conferred on a corporation to borrow money, it shall include, pending the issue and sale of the debentures, the power to agree with a bank or person for temporary advances from time to time to meet expenditures incurred. 1944, c. 39, s. 29.

Power to
borrow to
meet guar-
antee of
debentures.

343. When a corporation guarantees the payment of the principal or interest of any bonds or debentures and default is made in payment of the principal or interest by the person primarily liable therefor, the council of the corporation may agree with any bank or person for temporary advances to meet the amount in default in any one year pending the collection of such amount by a rate on all the rateable property in the municipality, or where the guarantee is by or on behalf of a section or portion of a township, by a rate on all the rateable property in such section or portion. R.S.O. 1937, c. 266, s. 341.

PART XV

ACQUISITION OF LAND AND COMPENSATION

LAND TAKEN OR INJURIOUSLY AFFECTED

Interpreta-
tion.

344. In this Part,

- (a) "expropriation" means taking without the consent of the owner, and "expropriate" and "expropriating" have corresponding meanings;
- (b) "judge" means a judge of the county or district court of the county or district in which the land or any part of it is situate;
- (c) "land" includes a right or interest in, and an easement over, land;
- (d) "owner" includes mortgagee, lessee, tenant, occupant, and a person entitled to a limited estate or interest in land, a trustee in whom land is vested, a

committee of the estate of a mentally incompetent person, an executor, an administrator, and a guardian.
R.S.O. 1937, c. 266, s. 342.

345.—(1) The council of every corporation may pass by-laws for acquiring or expropriating any land required for the purposes of the corporation, and for erecting buildings thereon, and may sell or otherwise dispose of the same when no longer so required.

Power to acquire or expropriate land.

(2) Where in the exercise of its powers of acquiring or expropriating land it appears to the council that it can acquire a larger quantity of land from any particular owner at a more reasonable price and on terms more advantageous than those upon which it could obtain the part immediately required for its purposes, the council may acquire or expropriate such larger quantity and may afterwards sell and dispose of so much of it as is not so required.

Taking more land than required.

(3) A by-law for entering on or expropriating land shall contain a description of the land, and, if it is proposed to expropriate an easement or other right in the nature of an easement, a statement of the nature and extent of the easement to be expropriated. R.S.O. 1937, c. 266, s. 343.

Land to be described in by-law, etc.

346.—(1) Any land acquired or taken by a corporation in the exercise of the powers conferred by any general or special Act in excess of the land actually required for the opening, widening, extension or straightening of a highway may be used in or towards making compensation by way of restitution to the owner of other land taken for or in connection with the work, and the corporation may lawfully exercise such powers in pursuance of an agreement to that effect with such owner or with a view to making or proposing to make such an agreement.

Power to use excess land by way of compensation to owners.

(2) If in any arbitration proceeding to fix compensation for land taken by it, the corporation shall offer to transfer or assure additional or other land to the owner by way of enlarging the remainder of his parcel or in substitution for his parcel such offer shall be taken into account by the arbitrator and dealt with in the award, and if the award is based on such transfer being made the offer shall be binding on the corporation in the terms fixed by the award (subject to any right of appeal) and the offer and final award shall together constitute an agreement between the parties and the owner shall be entitled to have such additional or substituted land assured him in accordance therewith.

Offer to transfer excess land by way of compensation to be considered by arbitrator; award to be binding.

(3) In such case upon the application of the corporation or of any interested party the Municipal Board may make such orders to compel the taking by the corporation of such additional land for the purposes of the agreement and concerning

Power of Municipal Board to order performance of agreement.

the compensation payable thereon and as to the vesting of the title to the land in accordance with the agreement as may be necessary to protect and enforce the rights of all parties interested. R.S.O. 1937, c. 266, s. 344.

Sale of land
by council,
when not
to be open
to question.

347. The determination of a council as to the time when, the manner in which, the price for which or the person to whom any property of the corporation, which the council may lawfully sell, shall be sold, shall not be open to question, review, or control by any court, if the purchaser is a person who may lawfully buy and the council acted in good faith. R.S.O. 1937, c. 266, s. 345.

Power to
enter on
land after
expropria-
tion by-law
passed.

348.—(1) At any time after the passing of a by-law for entering on or expropriating land, the corporation, by leave of the judge and upon payment into the Supreme Court of a sum sufficient, in the opinion of the judge, to satisfy the compensation, may enter upon the land, and if any resistance or forcible opposition is made to its so doing the judge may issue his warrant to the sheriff of the county or district in which the land lies to put the corporation in possession and to put down such resistance or opposition which the sheriff, taking with him sufficient assistance, shall accordingly do.

When leave
and payment
into Court
not required.

(2) Leave of the judge and payment into Court shall not be necessary where the land is being expropriated for or in connection with the opening, widening, protecting from the erosion of streams or water, altering or diverting a highway unless upon application by the owner a judge of the Supreme Court otherwise directs. R.S.O. 1937, c. 266, s. 346.

Owners of
lands taken,
etc., by cor-
poration,
etc., to be
compensated.

349.—(1) Where land is expropriated for the purposes of a corporation, or is injuriously affected by the exercise of any of the powers of a corporation under the authority of this or any general or special Act, unless it is otherwise expressly provided by such general or special Act, the corporation shall make due compensation to the owner for the land expropriated and for any damage necessarily resulting from the expropriation of the land, or where land is injuriously affected by the exercise of such powers for the damages necessarily resulting therefrom, beyond any advantage which the owner may derive from any work for the purposes of or in connection with which the land is injuriously affected.

Arbitration.

(2) The amount of the compensation, if not mutually agreed upon, shall be determined by arbitration.

Fencing.

(3) Where fencing or additional fencing will become necessary, owing to land having been expropriated, the cost of it shall be included in the compensation.

(4) Where part only of the land of an owner is expropriated, there shall be included in the compensation a sum sufficient to compensate him for any damages directly resulting from severance. Damages resulting from severance. R.S.O. 1937, c. 266, s. 347.

“DEFERRED” WIDENING, ETC., OF HIGHWAY

350.—(1) A by-law of the council of a city having a population of not less than 50,000 or a municipality bordering on such a city for establishing or laying out, or for extending, widening or diverting a highway or part of a highway may provide that the corporation shall not enter immediately on the land required to be taken or proceed to carry out the work but that the same shall be deferred until a day named therein not less than three and not more than ten years after the date of the passing of the by-law, and in this section “highway” includes “street” as defined in *The Local Improvement Act*. By-law may fix future date for widening, etc. Rev. Stat., c. 215.

(2) Subject to subsection 7, the corporation shall not enter on any land required to be taken before the day named in such by-law unless by leave of the judge or by order of the Municipal Board made as hereinafter provided. Entry deferred accordingly.

(3) The by-law shall be binding upon the corporation and shall not be repealed or altered except by a vote of two-thirds of the members of the council and with leave of the Municipal Board, such leave to be granted the corporation only for exceptional reasons not apparent or existing when the by-law was passed and after hearing the owners of the lands proposed to be taken and on such terms as the Board may determine in regard to the revesting of the land taken and the payment to each owner of the damages, if any, sustained by him in consequence of the passing of the by-law or of so much of the by-law as is proposed to be altered and his costs. By-law not to be repealed except with leave of Municipal Board.

(4) Where the council proposes to pass a by-law under this section it may register in the proper registry office a draft plan of the contemplated work with any supplementary memorandum which may be needed to show its substantial features and to furnish adequate local description to comply with *The Registry Act*, and the registrar shall enter the same on the abstract index for each parcel of land required to be taken; but if the by-law is not passed within six months after such registration the registration shall be deemed of no effect and the corporation shall forthwith cause a certificate signed by the mayor or reeve and clerk and sealed with the corporation's seal, stating that no by-law was passed, to be registered in like manner in the registry office. Registration of plan in advance. Rev. Stat., c. 336.

Land taken shall vest at once in corporation on conditions.

(5) After the passing of the by-law and subject to any order made by the Municipal Board under subsection 3 the land required to be taken for the work shall be deemed to be vested in the corporation for the purposes of a highway subject to the right of the owner or his assigns to remain in the possession and enjoyment thereof without impeachment of waste either wanton or permissive until entry by the corporation as aforesaid and to utilize the land and to erect buildings thereon during his or their occupancy (subject to the provisions of subsections 13 and 14 as to compensation in respect of such buildings).

Assessment of land when vested.

(6) After the land is vested in the corporation it shall for all purposes of assessment and taxation, whether under the said by-law or otherwise, be deemed to be a component part of the highway; but where a building stands partly on land taken for the work and partly on adjoining land it shall be assessed on the assessment roll of the municipality in the same manner as if it stood entirely on such adjoining land.

Application by corporation to Municipal Board to further defer entry.

(7) Where it is shown to the satisfaction of the Municipal Board upon application made by the corporation before the day fixed for entry by the by-law that in view of financial conditions it is desirable that the day fixed for entry by the by-law should be further deferred, the Municipal Board may further defer the time for entry by the corporation on the land until a day not less than one year and not more than three years after the day fixed for entry by the by-law, but so that the total time for which entry is deferred by the provisions of the by-law and the order of the Municipal Board shall not exceed ten years, upon such terms and conditions as the said Board may deem proper, and upon such order being made the day fixed by the Municipal Board as the day for entry shall thereafter be deemed to be the day fixed in the by-law for entry.

Corporation to enter at date named.

(8) At the date named in the by-law for entry it shall be the duty of the corporation to enter and proceed with diligence and dispatch to remove all buildings and obstructions from the land taken for the work and to put it in fit and proper condition and make it available for use as a highway.

Subsequent by-law for undertaking work as a local improvement.

(9) The by-law may be passed without the assent of the electors and without regard to the provisions of *The Local Improvement Act* and shall express the intention of the council as to the corporation's portion of the cost thereunder, and the council may thereafter by a majority vote, pass a by-law for undertaking the work as a local improvement and such by-law shall have the same force and effect as if passed under section 8 of *The Local Improvement Act* and the provisions of that Act shall apply thereafter to such work *mutatis mutandis* and

the owners of the lots liable to be specially assessed thereunder shall have all the rights and remedies in relation thereto which are given them by the said Act so far as they are not inconsistent with the other provisions of this section, but the Municipal Board shall have no power under section 6 or 8 of the said Act, either by making an order or by withholding its approval to prevent the due carrying out of the work.

(10) Except as may be otherwise ordered by the Municipal Board under subsection 14 compensation payable under this section shall not become payable until the day fixed in the by-law for entry.

(11) The compensation shall be limited to,

- (a) the market value of the land itself exclusive of and without regard to any buildings or improvements thereon;
- (b) the value of the buildings and improvements;
- (c) damages occasioned by disturbance to any business established previous to the passing of the by-law to which the general principles of compensation shall apply;
- (d) damages to land, buildings and improvements injuriously affected by the exercise of any of the powers conferred by this section.

(12) The compensation shall be determined by a board of three arbitrators, all of whom may be residents of the municipality, one to be appointed by the judge and one by the Municipal Board and the third to be chosen by the two so appointed, and in the event of their failure to agree, the third to be appointed by the Chief Justice of Ontario.

(13) (a) In this subsection, "land" means the land itself exclusive of and without regard to any buildings or improvements thereon.

(b) Notwithstanding that entry is deferred the corporation or the owner may proceed at once after the passing of the by-law to have determined the compensation, if any, payable hereunder in respect of any land.

(c) The value of the land shall be fixed as of the date of the registration of the draft plan, or if no plan is registered, as of the date of the passing of the by-law.

(d) The board of arbitrators may determine the compensation in a summary manner upon seven days notice in writing duly served, and after hearing what is alleged by the parties and without hearing any other evidence unless it decides to do so may forthwith make its award, and the award so made

Appeal. shall be final and shall not be subject to appeal, except as to questions of law on which there shall be an appeal to the Court of Appeal, whose decision shall be final and binding and without appeal.

Hearing. (e) The board of arbitrators in its discretion may require all the claims for land taken under the by-law to be brought before it at one hearing, or it may divide the claims into groups and hold a separate hearing for each group.

Fixing compensation for buildings. (14) (a) Compensation shall be allowed in respect of buildings and improvements as they may exist at the date fixed for entry, and such compensation shall be determined by the board of arbitrators in the manner above set out.

As to buildings erected after passing of by-law. (b) In respect to buildings or improvements erected or made after the date of the registration of the draft plan of the work, or if no plan is registered, after the date of the passing of the by-law, the compensation or damages shall be allowed and payable to the extent only of three-quarters of the proper cost of a structure one storey in height of such temporary character, conformable to the existing building by-laws and regulations, as may be reasonable in view of the limited time which is to elapse before entry.

Relief in special cases. (15) The Municipal Board may make an order at any time granting relief in the following cases: first, where part of an owner's lot is taken for the work and special circumstances exist in the matter of the location, size or shape of the lot which render it inequitable and unjust that the compensation to be allowed for buildings or improvements to be thereafter erected thereon should be limited as provided in subsection 13 and, secondly, where the work is deferred until a day more than five years after the date of the passing of the by-law and the whole of the owner's lot is taken or so much of it as to render the remainder, by reason of its size or shape, unfit for building purposes, and the Board in the first case may approve of plans and specifications for appropriate buildings or improvements and fix the basis of compensation to be made therefor, and in the second case it may direct the corporation to enter and make compensation to the owner at an earlier day than the day named in the by-law or to make an immediate or periodical payment to the owner to compensate him for the delay, or it may make such further or other order in either case as may be required to afford due compensation to the owner for the exceptional and peculiar damage he would suffer by reason of the special circumstances affecting his lot.

Temporary advances. (16) The council may agree with any bank or person for temporary advances to meet any costs or liabilities incurred under the by-law prior to the completion of the work. R.S.O. 1937, c. 266, s. 348.

GENERAL PROVISIONS AS TO COMPENSATION

351.—(1) Except where the person entitled to the compensation is an infant, a mental incompetent or a person of unsound mind, a claim for compensation for damages resulting from his land being injuriously affected shall be made in writing with particulars of the claim, within one year after the injury was sustained, or after it became known to such person and, if not so made, the right to compensation shall be forever barred.

Claim for compensation, when and how to be made.

(2) In the case of an infant, a mental incompetent or a person of unsound mind, the claim shall be so made within the same period, or within one year after he ceased to be under the disability, whichever shall be the longer, or in case of his death while under the disability, within one year after his death, and, if not so made, the right to compensation shall be forever barred.

Case of infant, mental incompetent, etc.

(3) This section shall not apply where the expropriating by-law provides for acquiring an easement or right in the nature of an easement, and the damages arise from the exercise of such easement or right. R.S.O. 1937, c. 266, s. 349.

Exception as to acquiring easement.

352.—(1) If the owner of the land is unknown, or cannot be found, or if there is no person competent to contract with the corporation for the sale to it of the land, and to convey it to the corporation, the judge may, on the application of the corporation, appoint a person to act for the owner, and all acts done, contracts made, and conveyances executed by such person, shall be as valid and effectual as if the same were done, made or executed by the owner, and he were of full age and competent to do the act, make the contract or execute the conveyance.

Appointment of person to act for owner who is unknown or cannot be found.

(2) In the cases provided for by subsection 1, the amount of the compensation agreed upon or awarded shall be paid into the Supreme Court, with the privity of the Accountant of the Supreme Court, subject to further order. R.S.O. 1937, c. 266, s. 350.

Payment of compensation into Court.

353. The arbitrator may allow interest on the compensation at the rate of five per cent per annum from a day fixed by him. R.S.O. 1937, c. 266, s. 351.

Interest on compensation.

354. The compensation shall stand in the place of the land, and shall be subject to the limitations and charges, if any, to which the land was subject, and any claim to or encumbrance upon the land, or any part of it, as against the corporation, shall be converted into a claim upon the compensation. R.S.O. 1937, c. 266, s. 352.

Compensation to stand in the stead of land.

Interest on
compensa-
tion.

355.—(1) Where it is made to appear to a judge of the Supreme Court that for any reason it is proper that the compensation should be paid into court, the judge may give leave to the corporation to pay it into court, with interest at the rate of six per cent per annum for six months.

Notice of
payment
into Court.

(2) Notice of the payment into court, and calling upon all persons entitled to the land, or any part of it, to file their claims to the compensation, or any part of it, shall be published in such newspaper and for such time as the judge may direct.

Claims, how
determined.

(3) All claims to or upon the compensation shall be determined by a judge of the Supreme Court or in such manner as he may direct.

Costs.

(4) The costs of the proceedings, including allowances to witnesses, shall be paid by the corporation or by such person as the judge may direct.

Refund of
interest.

(5) If an order for distribution is obtained in less than three months from the payment into court the judge may direct a proportionate part of the interest to be returned to the corporation.

Payment
into court
to discharge
corporation.

(6) The payment into court shall discharge the corporation from all liability in respect of the compensation. R.S.O. 1937, c. 266, s. 353.

Order vest-
ing land in
corporation.

356. After payment into court of the compensation, a judge of the Supreme Court may, upon the application of the corporation, make an order vesting in the corporation the land in respect of which the compensation was payable, and the order shall have the same effect as a vesting order made under *The Judicature Act*. R.S.O. 1937, c. 266, s. 354.

Rev. Stat.,
c. 190.

Taking, etc.,
lands for
public work.

357.—(1) Where the council of a city or town is desirous of entering upon any work or undertaking for which land is required to be expropriated, or, in the execution of which land may be injuriously affected, the council may file in the office of the clerk plans and specifications of the work or undertaking, which shall show the names of the owners of the land to be affected, the land to be expropriated, and the nature and extent of any easement, or right in the nature of an easement, to be acquired, or certified copies of such plans and specifications.

Service of
notice of
intention to
construct
works, etc.

(2) The clerk shall cause to be served upon every owner of land to be expropriated, or which may be injuriously affected, a notice of the council's intention to proceed with the work or undertaking, and to expropriate the land necessary therefor, and that such plans and specifications may be inspected at his office, and that any claim for compensation on account of the

land being injuriously affected must be filed in his office, with a statement of the amount claimed, within 60 days, or, if the person served resides out of Ontario, within 90 days, from the service of the notice. Filing of claim.

(3) If a claim is not so filed within the period mentioned in subsection 2, it shall be forever barred unless, upon application to a judge of the Supreme Court, made not later than one year from the service of the notice, and, after seven days notice to the corporation, the judge allows the claim to be made. Claim not filed to be barred.

(4) Either party may appeal from the decision of the judge to the Court of Appeal. Appeal.

(5) Nothing in this section shall have the effect of barring a claim, if the plans and specifications filed do not disclose or sufficiently disclose that the injury in respect of which the claim is made will be caused by the work or undertaking. Claims not barred where plans insufficient.

(6) This section shall not apply to the claim of an infant, a mental incompetent or a person of unsound mind, or where the expropriating by-law provides for acquiring an easement or right in the nature of an easement and the land is injuriously affected by the exercise of such easement or right. R.S.O. 1937, c. 266, s. 355. For claims of infants, and mental incompetents, etc.

PART XVI

ARBITRATIONS

358.—(1) Save in cases where there is an official arbitrator the senior judge of the county or district court shall be sole arbitrator unless he under his hand requests a junior judge or the judge or junior judge of some other county or district to act for him, in which case the judge so designated shall be sole arbitrator. Senior judge as sole arbitrator.

(2) The provisions of *The Municipal Arbitrations Act* as to procedure and appeals shall apply to arbitrations held and awards made by the judge. R.S.O. 1937, c. 266, s. 356. Rev. Stat., c. 244 to apply.

359. Notwithstanding the provisions of this or any other Act the council may by by-law designate the Municipal Board as the sole arbitrator, in which case the Municipal Board shall have and may exercise all the powers and duties of an official arbitrator. 1946, c. 60, s. 47. Municipal Board as arbitrator.

360.—(1) Where the arbitration is as to compensation, if the expropriating by-law did not authorize or profess to authorize any entry on or use to be made of the land before the award, except for the purpose of survey, or if the by-law gave Award not to be binding in certain cases unless adopted by by-law.

or professed to give such authority, but the arbitrator by his award finds that it was not acted upon, the award shall not be binding on the corporation, unless it is adopted by by-law within three months after the making of the award, or after the determination of any appeal therefrom, and if it is not so adopted the expropriating by-law shall be deemed to be repealed, and the corporation shall pay the costs between solicitor and client of the reference and award, and shall also pay to the owner the damages, if any, sustained by him in consequence of the passing of the by-law, and such damages if not mutually agreed upon shall be determined by arbitration and if the by-law has been registered or a caution in respect of it has been filed, the corporation shall forthwith cause a certificate signed by the mayor and clerk and sealed with the corporation's seal, stating that the by-law stands repealed, to be registered in the proper registry office or the caution to be removed, as the case may be.

Power to
repeal by-
law before
award.

(2) Where the expropriating by-law did not authorize or profess to authorize any entry on or use to be made of the land except for the purpose of survey, or if the by-law gave or professed to give such authority but it has not been acted on, the council may at any time before the making of the award, and whether or not arbitration proceedings have been begun, repeal the by-law, and if that is done the repealing by-law, if the expropriating by-law has been registered, shall be registered forthwith by the corporation in the proper registry office, or if the land is under *The Land Titles Act* and a caution has been filed, the corporation shall forthwith remove the caution and the costs and damages mentioned in subsection 1 shall be paid by the corporation as therein provided. R.S.O. 1937, c. 266, s. 357 (1, 2).

Rev. Stat.,
c. 197.

PART XVII

ACTIONS BY AND AGAINST MUNICIPAL CORPORATIONS

Right of
action of
municipal
corporation
to enforce
agreements,
etc.

361. Where a duty, obligation or liability is imposed by statute upon any person in favour of a municipal corporation, or the inhabitants, or some of the inhabitants, of a municipality, or where a contract or agreement is entered into which imposes such a duty, obligation or liability, the corporation shall have the right by action to enforce it and to obtain as complete and as full relief and remedy as could be obtained in an action by the Attorney-General, as plaintiff, or as plaintiff on the relation of any person interested, or in action by such inhabitants or one or more of them, on his or their own behalf, or on behalf of himself or themselves and of such inhabitants. R.S.O. 1937, c. 266, s. 358.

362. An action shall not be brought for anything done under a by-law, order or resolution of a council which is invalid, in whole or in part, until one month after the by-law, order or resolution, or so much of it as is invalid, has been quashed or repealed, and every such action shall be brought against the corporation alone, and not against any person acting under the by-law, order or resolution. R.S.O. 1937, c. 266, s. 359.

Corporation to be liable for acts done under illegal by-law.

PART XVIII

RESPECTING THE ADMINISTRATION OF JUSTICE

POLICE OFFICE IN CITIES AND TOWNS

363. The council of every city and town shall establish and maintain therein a police office. R.S.O. 1937, c. 266, s. 362.

Police office.

364. The council shall provide all necessary and proper accommodation, fuel, light, stationery and furniture for the police office, and for the officers connected with it.

Accommodation, etc., for police office.

COURT HOUSES, JAILS, ETC.—ESTABLISHMENT

365. Until otherwise provided by law the existing county and district towns shall continue to be the county and district towns of the counties and districts in which they are respectively situate. R.S.O. 1937, c. 266, s. 384.

Existing county and district towns continued.

366.—(1) The corporation of every county shall provide and maintain a county court house and a county jail.

County to provide court house and jail.

(2) The court house and the jail shall be sufficient for the purposes of every city and separated town, which forms part of the county for judicial purposes, as well as for the purposes of the county.

Sufficient for county and city.

(3) The jail shall be provided and maintained in conformity with the provisions of *The Jails Act*, and to the satisfaction of the Lieutenant-Governor in Council.

Maintenance of jail. Rev. Stat., c. 188.

(4) Subsection 2 shall not apply to the court house if the city has a court house of its own, or to the jail if the city has a jail of its own. R.S.O. 1937, c. 266, s. 385.

Saving.

367.—(1) The council of a county or of a city may pass by-laws for erecting, enlarging or improving a court house or jail, and shall keep the same in repair and provide the food, fuel and other supplies required therefor.

Erection of court house or jail by county or city.

County
acquiring
land in city
or separated
town.

(2) The corporation of a county may acquire land within a city or separated town, whether such city or separated town is the county town or not, for the purpose of erecting and may erect thereon a court house, a jail and buildings for use as a county hall and for offices for the county officials. R.S.O. 1937, c. 266, s. 386.

Use of
county jails
and court
houses by
city or
separated
town.

368. The court house and the jail of the county in which a city or separated town is situate, shall, except where the city has provided one for itself, be the court house or jail, as the case may be, of the city or town, and the sheriff and jailer shall receive and safely keep, until duly discharged, all persons committed to the jail by any competent authority of the city or town. R.S.O. 1937, c. 266, s. 387.

CARE OF COURT HOUSES AND JAILS

Custody
of jails.

369.—(1) The sheriff shall have the care of the county jail, jail offices and yard and jailer's apartments. R.S.O. 1937, c. 266, s. 388 (1); 1948, c. 59, s. 11 (1).

Appoint-
ment of
jailer, etc.

(2) The Lieutenant-Governor in Council may appoint the jailer, jail surgeon and other jail employees, and fix their salaries which shall be paid by the county or city, as the case may be. 1948, c. 59, s. 11 (2), *part*.

Bonus.

(3) The Lieutenant-Governor in Council may authorize the county or city, as the case may be, to pay to the jailer and jail employees, other than the jail surgeon, such bonuses as the Lieutenant-Governor in Council may prescribe. 1950, c. 46, s. 16.

Sick leave
credits.

(4) The county or city shall establish a system of credits and payments for regular attendance of the jailer and jail employees, and the Lieutenant-Governor in Council may make regulations prescribing the system to be established. 1948, c. 59, s. 11 (2), *part*; 1949, c. 61, s. 8.

Workmen's
compensa-
tion.
Rev. Stat.,
c. 430.

(5) For the purposes of *The Workmen's Compensation Act*, every jailer and jail employee shall be deemed to be an employee of the county or city, as the case may be.

Interpre-
tation.

(6) For the purposes of subsections 4 and 5, a jail surgeon shall be deemed not to be a jail employee. 1948, c. 59, s. 11 (2), *part*.

Jailer not
to accept
fees.

370. A jailer or an officer of the jail shall not demand or receive any fee, perquisite or other payment from any prisoner. R.S.O. 1937, c. 266, s. 389.

371.—(1) The county council shall have the care of the court house and of all offices, rooms and grounds connected therewith, whether the court house is a separate building or is connected with the jail, and the appointment of the caretakers thereof, and shall, from time to time, provide all necessary and proper accommodation, fuel, light, stationery and furniture for the Provincial courts of justice, other than the division courts, and for the library of the law association of the county, such last-mentioned accommodation to be provided in the court house, and proper offices, together with fuel, light, stationery and furniture, and when certified by the Attorney-General to be necessary, with typewriting machines, for all officers connected with such Provincial courts, other than the Crown attorney of the City of Toronto. R.S.O. 1937, c. 266, s. 390 (1). (*As to division courts, see Rev. Stat., c. 106.*)

County council to have care of court house, etc.

(2) Where in any county court district erected under *The County Judges Act*, there is a city having a population of 100,000 or more and the judicial business in such district is divided among the judges therein as provided by the said Act, the county council of the county in which such city is situate shall provide in the court house at least one suitable office together with fuel, light, stationery, furniture and other accommodation for the use of the judges of the county courts of the other counties in such district who perform judicial functions in such city. 1939, c. 30, s. 22.

Accommodation for judges. Rev. Stat., c. 76.

(3) A corporation shall not be liable to pay for furniture unless it has been ordered by the council or by some person authorized by it so to do. R.S.O. 1937, c. 266, s. 390 (3).

Liability for furniture.

372. The care of the jail or court house of a city shall be regulated by by-law of its council. R.S.O. 1937, c. 266, s. 391.

Care of city jail.

COSTS AND EXPENSES OF COURT HOUSES AND JAILS

373.—(1) A city, or a separated town shall, as part of the county for judicial purposes, so long as the county court house or jail is also that of the city or separated town, bear and pay its just share or proportion of all charges and expenses from time to time incurred for the purposes mentioned in section 21 of *The Registry Act*, and in erecting, enlarging, improving, repairing or maintaining such court house or jail, and of their proper lighting, cleaning and heating; of drafting, selecting, enrolling and paying jurors; in providing the accommodation and other matters mentioned in subsection 1 of section 371, and of all other charges relating to the administration of justice, except such as the county is entitled to be repaid by the Province and except charges connected with coroners' inquests and constables' fees and disbursements.

Liability of cities and separated towns for cost of erection and maintenance of court house, etc. Rev. Stat., c. 336.

Allowance to county for use of court house for division courts.

(2) The use of the court house for the sittings of a division court of a division which comprises the whole or a part of a city or separated town, may be taken into account in determining the amount to be paid by the city or town for the maintenance of the court house.

Reference to arbitration in case of disagreement.

(3) If the council of the city or separated town and the council of the county are unable to agree as to the amount to be paid by the city or town, the same shall be determined by arbitration.

Purchase of land and erection of buildings for municipal and judicial purposes.

(4) The council of a county and of a city or separated town situate in the county may agree,

- (a) to acquire land for the purpose of erecting thereon buildings for the joint use of the county and city or town, for municipal and judicial purposes;
- (b) for the erection, maintenance, use, management and control of such buildings;
- (c) for fixing the amount which each corporation shall pay or contribute for such purposes;
- (d) for the subsequent disposition of such land and buildings, and of any insurance or other money that may be received in respect thereof,

and may pass all such by-laws as may from time to time be necessary for acquiring the land, and carrying out the agreement. R.S.O. 1937, c. 266, s. 392.

[NOTE.—As to payment of expenses of shorthand writer and interpreter, see *The County Judges Act*, Rev. Stat., c. 76. See also *The Magistrates Act*, Rev. Stat., c. 219.

As to payment by city or separated town of proportion of certain expenses under *The Registry Act*, see Rev. Stat., c. 336.]

What arbitrator to take into account.

374. Where the court house, jail or registry office was erected before the city or town ceased to be part of the county for municipal purposes the arbitrator shall take into account in determining the amount to be paid by the city or town the value of the respective interests of the county and of the city or town in such building and the extent of the use of it by them respectively. R.S.O. 1937, c. 266, s. 393.

Insurable interests of corporations in court house and jail.

375. The corporation of a county, city or separated town shall have, respectively, from time to time, insurable interests in the county court house and jail in the proportions of the aggregate amounts which they have contributed, respectively, to the costs, charges and expenses of erecting, enlarging, improving and repairing said buildings, and in the contents

and furniture of the county court house and jail in the proportions of the aggregate amounts which they have contributed, respectively, to the costs, charges and expenses of providing said contents and furniture. R.S.O. 1937, c. 266, s. 394.

376. Where a city is required to contribute towards the cost of building a court house or jail not commenced before the 5th day of March, 1880, the city shall not be bound to pay for any part of the expenditure thereafter incurred in respect thereto unless the same has been concurred in by the council of the city, or in case of dispute has been determined by arbitration according to the provisions of this Act, and the council of the city shall have a voice in the selection of the site of the court house or jail. R.S.O. 1937, c. 266, s. 395.

377. The site of the court house or jail shall be determined by arbitration, unless the councils of the county and city agree as to the site. R.S.O. 1937, c. 266, s. 396.

378.—(1) A city which uses the county court house or jail, and a separated town shall pay to the county such compensation therefor, and for the care and maintenance of prisoners, as may be mutually agreed upon, or determined by arbitration.

(2) In determining the compensation to be paid for the care and maintenance of prisoners, the arbitrator shall, so far as he deems the same just and reasonable, take into consideration the original cost of the site and erection of the jail and jail buildings and of repairs and insurance, so far as they have been borne by one or other of the municipalities, and the cost of maintaining and supporting the prisoners, as well as the salaries of all officers and servants connected therewith. R.S.O. 1937, c. 266, s. 397.

379. Where in any city or town the court house and jail of the county have been erected at the expense of the county after the separation for municipal purposes of such city or town from the county, and before the 29th day of March, 1873, and such city or town has not erected a separate court house and jail, if the city or town does not agree with the county as to the amount to be paid to the county as an allowance for interest and depreciation upon the capital cost of the erection of the county court house and jail, the arbitrator in making his award, shall take into account the relative populations of the city or town and county, respectively, and the extent to which said buildings are used by the city or town and the county jointly or severally as municipal corporations or for municipal purposes as well as the extent to which said buildings are used

for the general administration of justice, and apart from and in addition to any amount payable under this Act for the use of said buildings by the city or town as a municipal corporation, or for municipal purposes, the arbitrator shall award to be paid by the city or town, a just proportion of the equivalent of annual interest and depreciation upon the capital cost incurred before said date in the erection of such buildings, which equivalent of interest and depreciation shall be computed at the rate of five and one-half per cent per annum, and the amount so awarded shall be payable by such city or town in addition to the share, proportion or compensation payable by such city or town under sections 373 and 378. R.S.O. 1937, c. 266, s. 398.

When the amount of compensation may be reconsidered.

380. After five years from the time when the amount of the compensation was agreed upon or determined by arbitration, either under section 373 or after a direction by the Lieutenant-Governor in Council under the authority of this section, the Lieutenant-Governor in Council upon the application of either corporation may direct that the existing arrangement shall cease after a day to be named and that the compensation to be paid from that day shall be settled by agreement or be determined by arbitration. R.S.O. 1937, c. 266, s. 399.

Lock-up houses.

381.—(1) The council of every local municipality may establish, maintain and regulate lock-up houses for the detention and imprisonment of persons sentenced to imprisonment therein for not more than 10 days, and of persons detained for examination on a charge of having committed any offence, or for transfer to any common jail for trial, or in the execution of any sentence, and such persons may be lawfully received and so detained in the lock-up.

Joint lock-up houses.

(2) Two or more local municipalities may unite in establishing, maintaining and regulating a lock-up house, and such lock-up house shall be deemed to be the lock-up house of each of them. R.S.O. 1937, c. 266, s. 400 (1, 2).

Constable in charge.

382.—(1) Every lock-up house shall be placed in the charge of a constable appointed for that purpose.

Salary.

(2) The council may provide for and pay the salary or other remuneration of the constable in charge of a lock-up. R.S.O. 1937, c. 266, s. 400 (3, 4).

Use of jail as lock-up.

383. The county jail may be used for the purposes of a lock-up house for any local municipality and if so used the corporation of the local municipality shall pay yearly to the county treasurer for the use of the county a reasonable sum for the use of the jail as a lock-up house and for the expenses

incurred by such use, and in case of disagreement the amount to be paid to the county shall be determined by arbitration. 1943, c. 16, s. 8.

384. The cost of conveying a prisoner to and of keeping him in a lock-up house shall be defrayed in the same manner as the expense of conveying a prisoner to and keeping him in a common jail of the county. R.S.O. 1937, c. 266, s. 402.

Expense of
keeping
prisoners in
lock-up.

INSTITUTIONS FOR ALCOHOLIC HABITUATES

385.—(1) The council of a city having a population of not less than 50,000 may,

Institutions
for reclama-
tion of
habitual
drunkards.

- (a) establish, erect and maintain within the city an institution for the reclamation and cure of habitual drunkards;
- (b) provide that the mayor, a magistrate, or any justice of the peace having jurisdiction in the municipality, may send or commit to such institution an habitual drunkard, with or without hard labour.

(2) Sections 63 to 71 of *The Private Sanitaria Act* shall apply to such institution. R.S.O. 1937, c. 266, s. 403.

Rev. Stat.,
c. 290
to apply.

PART XIX

POWERS TO PASS BY-LAWS

386. By-laws may be passed by the councils of all municipalities:

R.S.O. 1937, c. 266, s. 404, *part.*

Agreements and Contracts

1. For entering into agreement with any other municipality or person for the use of the fire-fighting equipment, or any of it, of the municipality or of such other municipality or person upon such terms and conditions and for such consideration based on cost as may be agreed upon or failing agreement as may be determined by the Municipal Board, provided that notwithstanding the provisions of any such agreement no liability shall accrue to the municipality or person for failing to supply the use of the fire-fighting equipment, or any of it. 1946, c. 60, s. 48 (2); 1947, c. 69, s. 31 (1).

Fire protec-
tion agree-
ments.

2. For contracting for a supply of water within the municipality for fire purposes and other public uses, from hydrants or otherwise as may be deemed advisable, and for renting hydrants for any number of years not, in the first instance,

Water
supply
contracts.

exceeding 10, and for renewing the contract from time to time for periods not exceeding 10 years, as the council may deem proper, or for purchasing or erecting hydrants necessary for any of such purposes. R.S.O. 1937, c. 266, s. 404, par. 50.

Insurance.

3. For contracting for insurance against risks that may involve pecuniary loss or liability on the part of the corporation, and for paying premiums therefor. 1939, c. 30, s. 23 (3).

Agreement with adjoining municipality as to sewers and sewerage systems.

4. For entering into an agreement with the corporation of any adjoining municipality for the use or interchange of any sewers, sewerage systems or works for the disposal, interception or purification of sewage, and for making all necessary connections and acquiring land in or adjacent to the municipality for any of such purposes, and for providing for the payment by one municipality to the other, annually or otherwise, of such sums as may be agreed upon as compensation for any such interchange or use. R.S.O. 1937, c. 266, s. 404, par. 8.

Joint operation of works, systems and services.

5. For entering into agreement with one or more municipalities to provide for the joint management and operation of water systems, sewerage systems, works for the disposal, interception or purification of sewage, garbage collection and disposal systems, hydro-electric systems, transportation systems, road systems, fire departments, police departments, or other municipal utility, systems or services, and for the establishment of joint boards of management therefor. 1946, c. 60, s. 48 (1), *part*.

Contracts with street railway companies for street watering.

6. For contracting with a street railway company for watering any of the highways for any number of years, not exceeding five, and for renewing such contract from time to time for a period not exceeding five years. R.S.O. 1937, c. 266, s. 404, par. 51.

Air Harbours and Landing Grounds

Establishment of air harbours and landing grounds.

7. For the establishment of or for granting aid to the establishment of air harbours or landing grounds in compliance with the *Air Regulations* (Canada), and for granting aid for aeronautical research work and for the development and general advancement of the science of aeronautics and the use of aircraft; and the councils of any two or more municipalities may enter into an agreement for the establishment of an air harbour and the joint exercise of all the powers and rights contained in this paragraph upon such terms as may be agreed and may entrust the control and management of any air harbour or landing ground so established to a commission appointed by such councils pursuant to agreement.

- (a) For the purposes of this paragraph, the council of a local municipality may acquire land in the municipality or in an adjacent or an adjoining municipality. R.S.O. 1937, c. 266, s. 404, par. 31; 1944, c. 39, s. 36 (4).

Associations

8. For the corporation becoming a member of any union of Ontario municipalities for furthering the interests of municipalities and paying the fees for such membership and making contributions for the expenses of the union, and paying the expenses of delegates to any meeting of it or upon its business. Membership in union of municipalities.

9. For any corporation officers becoming members of any municipal union or association for extending and improving the technical skill of such municipal officers in the discharge of their municipal duties, and for paying the fees for such membership, and for paying the expenses of such officers attending any meeting of such union or association or upon its business. Officers becoming members of association for improving technical knowledge.

10. For the corporation becoming a member of the Canadian Deep Waterways and Power Association and paying the fees for such membership and for making contributions towards the expenses of such association and paying the expenses of delegates to any meeting of it or upon its business. Canadian Deep Waterways and Power Association.

11. For making contributions towards the expenses incurred by the Ontario Safety League in carrying out the purposes for which it was organized. R.S.O. 1937, c. 266, s. 404, pars. 42-45. Grants to Ontario Safety League.

Drainage and Floods

12. For constructing, maintaining, improving, repairing, widening, altering, diverting and stopping up drains, sewers or water-courses; for providing an outlet for a sewer or establishing works or basins for the interception or purification of sewage; for making all necessary connections therewith, and for acquiring land in or adjacent to the municipality for any of such purposes. R.S.O. 1937, c. 266, s. 404, par. 7. Construction of drains, sewers, sewage disposal works, etc.

- (a) Before passing a by-law under this paragraph the council may direct that an engineer's report, with or without a survey, be prepared and the cost thereof may be levied against all the rateable property in the municipality or in a defined area thereof which in the opinion of council derives special benefit therefrom. 1944, c. 39, s. 36 (1).

13. For the purpose of preventing damage to any highway or bridge or to any property within the municipality by floods arising from the overflowing or damming back of a river, Works for prevention of damage by flooding.

stream or creek flowing through or in the neighbourhood of the municipality, for acquiring land in the municipality or in any adjoining or neighbouring municipality, and for constructing such works as may be deemed necessary for that purpose, and for deepening, widening, straightening or otherwise improving such river, stream or creek in the land so acquired, or removing from it islands, rocks or other natural obstructions to the free flow of the water. R.S.O. 1937, c. 266, s. 404, par. 17.

Exhibitions, etc.

Acquiring
land for
agricultural
exhibitions,
etc.

14. For acquiring land within or without the municipality as a place for holding agricultural, horticultural or industrial exhibitions and for erecting and maintaining buildings thereon for that purpose and for the management of the same.

Power to
lease.

15. For leasing for any period not exceeding three years from the making of the lease, any part of the land acquired under paragraph 14, which is not immediately required for the purposes for which it was acquired. R.S.O. 1937, c. 266, s. 404, pars. 12, 13.

General

Census.

16. For taking a census of the inhabitants. R.S.O. 1937, c. 266, s. 404, par. 4.

Destruction
of records.

17. Subject to the approval of the Department, for the destruction of receipts, vouchers, instruments, rolls or other documents, records and papers. 1946, c. 60, s. 48 (1), *part*.

Rental of
equipment.

18. For providing for the use by any person of any of the mechanical equipment of the municipality and for fixing the terms, conditions and rent charges therefor. 1946, c. 60, s. 48 (1), *part*.

Submission
of questions
of general
policy to
electors.

19. For submitting to the vote of the electors any municipal question not specifically authorized by law to be submitted.

- (a) A question as to securing a supply of electrical power or energy from The Hydro-Electric Power Commission of Ontario shall be submitted to the electors qualified to vote on money by-laws. R.S.O. 1937, c. 266, s. 404, par. 11.

Grants, etc.

Grants to
members of
armed
forces.

20. Subject to the approval of the Department, for making grants to persons who served in the armed forces of His Majesty or His Majesty's allies during any war. 1944, c. 39, s. 36 (3), *part*.

21. Subject to the approval of the Department, for granting aid to any fund established for the purpose of providing allowances or other assistance to the dependants of persons who died while serving in the armed forces of His Majesty or His Majesty's allies during any war and who immediately before entering such service resided in the municipality for at least six months. 1944, c. 39, s. 36 (3), *part*. Aid to widows, etc.

22. For establishing and maintaining or for granting money to aid in the construction of public bathing houses. R.S.O. 1937, c. 266, s. 404, par. 3. Public bathing houses.

23. For granting aid to any charitable institution or out-of-door relief to the resident poor. R.S.O. 1937, c. 266, s. 404, par. 5. Aid to charities.

24. For carrying on any community or joint community programme of recreation within the meaning of the regulations under *The Department of Education Act*, and for expending money or for granting money in aid for such purposes. 1948, c. 59, s. 12 (2). Community programmes. Rev. Stat., c. 94.

25. For granting or lending money or granting land in aid of any association, for the holding of a fat stock or live stock show or exhibition or any exhibition for the promotion or improvement of farming in any of its branches or departments. Aid to fat or live stock shows.

26. For making an annual grant towards the maintenance and operation of ferry boats or other appliances used at any ferry over a stream or other water separating a part of the municipality from another part of it, or separating it from another municipality in Ontario. R.S.O. 1937, c. 266, s. 404, pars. 14, 15. Grants to ferries.

27. For giving bounties for the destruction of foxes, provided that a local municipality shall not give any such bounties where the county in which it is situate has a by-law in force under this paragraph. 1946, c. 60, s. 48 (1), *part*. Fox bounties.

28. For granting aid for the construction of harbours, wharves, docks, slips and beacons on any river, lake or navigable water passing in, through, or forming any part of the boundary of the county, on such terms and conditions as to security and otherwise as may be deemed expedient. R.S.O. 1937, c. 266, s. 404, par. 19. Aid for construction of harbours, wharves, etc.

29. For granting aid for the erection, establishment, maintenance or equipment of public hospitals, public sanatoria or municipal isolation hospitals, within or outside the municipality, and may issue debentures therefor. 1946, c. 60, s. 48 (3). Aid to hospitals.

Aiding
indigent
persons.

30. For aiding in maintaining any indigent inhabitant, or person found in the municipality, at a home for the aged, hospital or institution for the mentally ill, deaf and dumb or blind, or other public institution of a like character.

Power
to take
security for
advances
made to per-
sons by way
of charity.

(a) Where money is advanced by way of charity or relief to or expended for the benefit of a person who, although in destitute circumstances, is the owner of or interested in land the retention of which is necessary for a dwelling for him, the corporation may take a conveyance of or a security on such land for the amount advanced or expended, and on the death of such person, or the surrender of the land by him to the corporation, the corporation may sell or dispose of the land and apply the proceeds in payment of the amount so advanced or expended, with interest thereon at the rate of six per cent per annum, and the costs of the sale, and the residue of such proceeds, if any, shall be paid to the executors, administrators or assigns of such person on demand. R.S.O. 1937, c. 266, s. 404, par. 29.

Public
libraries.

31. For granting money or land in aid of any public library established under any Act in the municipality or in an adjacent municipality. R.S.O. 1937, c. 266, s. 404, par. 18.

Offering and
paying
rewards.

32. For offering and paying on the conviction of the offender a reward to any person who supplies information leading to the apprehension or conviction of any person guilty of any offence whether triable summarily or on indictment. 1939, c. 30, s. 23 (1).

Sports.

33. For aiding athletic or aquatic sports, and for making grants or gifts to persons in recognition of outstanding achievements in athletic, aquatic or other games or contests. 1948, c. 59, s. 12 (1).

Aid to
nursing
organiza-
tions.

34. For granting aid to the Victorian Order of Nurses and to any local community nursing registry approved by the Registered Nurses' Association of Ontario. R.S.O. 1937, c. 266, s. 404, par. 49; 1950, c. 46, s. 17 (2).

Harbours, Wharves, etc.

Making, etc.
of wharves,
docks, etc.

35. For making, improving and maintaining public wharves, docks and slips, and for preserving shores, bays, harbours, rivers or waters and the banks thereof.

Regulating
harbours.

36. For regulating harbours.

Injuring,
filling up,
etc., of
harbours,
wharves.

37. For prohibiting the injuring, fouling, filling up or encumbering of a public wharf, dock, slip, drain, sewer, water or suction pipe, shore, bay, harbour, river or water.

38. For erecting and maintaining beacons.

Beacons.

39. For erecting, maintaining, operating and renting grain elevators, wharves, piers and docks in harbours, and floating elevators, derricks, cranes and other machinery for loading, discharging or repairing vessels.

Erecting
docks,
elevators,
etc.

40. For regulating vessels, crafts and rafts arriving in a harbour, and for imposing and collecting such reasonable harbour dues thereon as may serve to keep the harbour in good order and to pay a harbour master.

Vessels, etc.
Harbour
dues.

41. For requiring the owner or occupant of the land in connection with which the same exist, to remove door-steps, porches, railings, or other erections or obstructions projecting into or over any public wharf, dock, slip, shore, bay, harbour, river or water.

Removal of
door-steps,
railings,
projecting
over wharf,
dock, etc.

42. For requiring and regulating the removal from any public wharf, dock, slip, drain, sewer, shore, bay, harbour, river or water, of all sunken, grounded or wrecked vessels, barges, crafts, cribs, rafts, logs or other obstructions or encumbrances, by the owner, charterer or person in charge, or any other person who ought to remove the same. R.S.O. 1937, c. 266, s. 404, pars. 20-27.

Removal
of sunken
vessels,
etc., from
harbours,
etc.

Highways and Bridges

43. For regulating the driving of horses or cattle and the riding of horses on highways and bridges.

Regulating
driving on
roads and
bridges.

44. For prohibiting racing, immoderate or dangerous driving or riding on highways or bridges. R.S.O. 1937, c. 266, s. 404, pars. 9, 10.

Prohibiting
racing on
highways.

45. Notwithstanding any other Act, for laying, or maintaining, or for authorizing any person to lay, use or maintain pipes or conduits for transmitting gasoline, oil, anti-freeze, brine or other similar products along, under, in or upon highways or land owned by the municipality; and for making such annual or other charge for the privilege conferred as the council may deem reasonable; and for entering into agreements with persons for the use by them of such pipes or conduits on such terms and conditions as may be agreed upon.

Laying of
pipes for oil,
etc.

- (a) Such annual or other charge and any expense incurred by the corporation in restoring the highway to its former condition shall be payable and payment may be enforced in like manner as taxes. 1948, c. 59, s. 12 (3).

Prohibiting
vehicles on
sidewalks,
etc.

46. For prohibiting carriages, wagons, bicycles, sleighs and other vehicles and conveyances of every description, and whatever the motive power, or any particular kind or class of such vehicles or conveyances being upon, or being used, drawn, hauled or propelled along or upon any sidewalk, pathway or footpath, used by or set apart for the use of pedestrians and forming part of any highway or bridge, boulevard or other means of public communication, or being in or upon any highway, boulevard, park, park-lot, garden or other place set apart for ornament or embellishment or for public recreation. R.S.O. 1937, c. 266, s. 404, par. 48.

Municipal Employees

Appointing
certain
officers.

47. For appointing such officers and servants as may be necessary for the purposes of the corporation, or for carrying into effect the provisions of any Act of the Legislature or by-law of the council, and for fixing their remuneration and prescribing their duties, and the security to be given for the performance of them. R.S.O. 1937, c. 266, s. 404, pars. 40-41.

Pensions.
R.S.C., 1927,
c. 7.
Rev. Stat.,
c. 183.

48. For providing, by arrangement either with His Majesty R.S.C., 1927, pursuant to the *Government Annuities Act* (Canada) or with an insurer licensed under *The Insurance Act* or with both His Majesty and an insurer as aforesaid, pensions for employees or any class thereof and their wives and children.

Interpre-
tation.

(a) In this paragraph,

- (i) "employee" means any salaried officer, clerk, workman, servant or other person in the employ of the municipality or of a local board and includes any person designated as an employee by the Minister,
- (ii) "local board" includes any school board, public utility commission, transportation commission, public library board, board of park management, local board of health, board of commissioners of police and any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of a municipality or of two or more municipalities or portions thereof,
- (iii) "pensions" includes any form of superannuation or benefit.

- (b) No by-law passed under this paragraph shall become operative until approved by the Department nor shall any by-law passed under this paragraph and approved by the Department be amended or repealed without the approval of the Department. Approval by Department.
- (c) Payments or contributions other than the initial payments or contributions made by a municipality or local board under this paragraph shall be deemed to be current expenditures. Contributions to be deemed current expenditures.
- (d) The municipality or local board shall deduct by instalments from the salary, wages or other remuneration of every employee to whom the by-law is applicable the amount which the employee is by the by-law required to contribute. Contributions to be deducted from salary, etc.
- (e) The local board shall pay to the treasurer of the municipality the payments or contributions mentioned in clause *c* and the amounts deducted under clause *d*. Treasurer to receive contributions and deductions.
- (f) Any two or more municipalities may provide by agreement for pensions for employees or any class thereof and their wives and children, and in such case the provisions of this paragraph shall apply *mutatis mutandis* and it shall be agreed that one of the parties shall be deemed to be the municipality and the other parties shall be deemed to be local boards within the meaning of this paragraph. Municipalities may agree to provide pensions.
- (g) Any local board may provide pensions for employees or any class thereof and their wives and children and the provisions of this paragraph shall apply *mutatis mutandis* thereto. 1939, c. 30, s. 23 (2); 1941, c. 35, s. 10 (2); 1944, c. 39, s. 36 (5-8); 1946, c. 60, s. 48 (6-8); 1947, c. 69, s. 31 (2). Local boards may provide pensions.
- (h) Where an employee, Transfer of pension funds.
- (i) becomes a member of the civil service of Ontario or Canada,
 - (ii) becomes an employee of another municipality or
 - (iii) becomes a member of the staff of any board, commission or public institution established under any Act of the Legislature,

the council may by by-law authorize the transfer of, or may transfer, the whole or any part of any money standing to the credit of the employee in connection with a pension plan or fund established for employees

of the municipality or a local board, to any like plan or fund maintained to provide superannuation benefits for the members of such civil or civic service or such staff, as the case may be. 1950, c. 266, s. 17 (1).

Sick leave
credit
gratuities.

49. For providing, subject to the approval of the Department, a plan of sick leave credit gratuities for employees or any class thereof and for establishing and maintaining a fund therefor, and for investing the moneys of such fund, provided that on the termination of his employment no employee shall be entitled to more than an amount equal to his salary or other remuneration for the six months period then last past.

- (a) "Employee" means any person designated as an employee by the Department and includes any salaried officer, clerk, workman, servant or other person in the employ of the municipality or of a local board as defined in *The Department of Municipal Affairs Act*. 1946, c. 60, s. 48 (1), *part*.

Rev. Stat.,
c. 96.

Parks, Parking Lots, etc.

Acquiring
land for
parks, etc.

50. For acquiring land for and establishing and laying out public parks, squares, avenues, boulevards and drives in the municipality or in any adjoining local municipality, and where there is no board of park management for exercising all or any of the powers which are conferred on boards of park management by *The Public Parks Act*.

Rev. Stat.
c. 314.

Where land
expropriated
is in an
adjoining
municipality.

- (a) A corporation which expropriates land in another municipality under the powers conferred by this paragraph shall put the land in an efficient state to be used and open it to the general public for the purpose for which it was acquired within a reasonable time after such expropriation, and shall maintain and keep the land in an efficient state of repair and shall provide police protection therefor. R.S.O. 1937, c. 266, s. 404, par. 46.
- (b) Where land is acquired under this paragraph, the cost of acquisition and maintenance thereof or any part thereof may be levied against a defined area in the municipality which in the opinion of the council derives special benefit therefrom.
- (c) Where land is acquired under this paragraph for park purposes and there is no board of park management the council may appoint three resident rate-payers who need not be members of the council as a committee to regulate and supervise the use of the park. 1944, c. 39, s. 36 (10).

51. For accepting and taking charge of land, within or outside the municipality, dedicated as a public park for the use of the inhabitants of the municipality. R.S.O. 1937, c. 266, s. 404, par. 47. Accepting land dedicated.

52. For acquiring, establishing, laying out and improving land where vehicles may be parked and for regulating, supervising and governing the parking of vehicles thereon provided a fee is charged and collected for such parking. 1944, c. 39, s. 36 (11). Municipal parking lots.

War Memorials and Patriotic Objects

53. Subject to the approval of the Department, for acquiring, erecting, altering, maintaining, operating or managing or granting aid for the acquisition, erection, alteration, maintenance, operation or management of monuments, memorial windows, tablets, buildings, arenas, auditoriums, parks, recreational areas, health or community centres, playgrounds, athletic fields, stadia, or other places of recreation and amusement within or outside the municipality which may be in commemoration of the persons or any class thereof who served during any war in the armed forces of His Majesty or His Majesty's allies or in the auxiliary or ancillary services of such forces or in the merchant marine or any Corps of (Civilian) Canadian Fire Fighters for service in the United Kingdom. Special undertakings.

- (a) The corporation may borrow money for any of the purposes of this paragraph by the issue of debentures and may levy therefor or for any of the purposes of this paragraph on the rateable property in the municipality or in defined areas thereof.
- (b) Any such monument may with the approval of the Municipal Board, on application by the corporation, be erected in any highway not less than 66 feet in width and over which the corporation has jurisdiction.
- (c) Any such building may be established and equipped as a home or club-house for such persons or any class thereof or may be used for such purposes as the council may deem proper.
- (d) The councils of two or more municipalities may enter into an agreement for carrying out any of the purposes of this paragraph in any one of such municipalities.
- (e) The council may appoint three resident ratepayers who need not be members of the council to act on its behalf as a board of management for any undertaking under this paragraph.

- (f) The council may prescribe fees for admittance to or for the use of any undertaking under this paragraph. 1944, c. 39, s. 36 (3), *part*; 1946, c. 60, s. 48 (4, 5).

Exemption
from
taxation.

54. Subject to the approval of the Department, for exempting from taxation, except for local improvement and school purposes, for a period not exceeding 10 years, any premises actually used and occupied as a memorial home, club-house or athletic grounds by persons who served in the armed forces of His Majesty or His Majesty's allies in any war. 1944, c. 39, s. 36 (3), *part*.

Grants for
patriotic
purposes,

387. Subject to the approval of the Department and to subsection 3 of section 267, by-laws may be passed,

- (a) by the councils of counties, cities, separated towns and separated townships, and of local municipalities in unorganized territory,

aid to
patriotic
organiza-
tions;

- (i) for granting aid to any patriotic organization that is duly registered under *The War Charities Act, 1939* (Canada);

aid to rifle
associations
and militia;

- (ii) for aiding any regularly organized rifle association or any association or corporation having for its object or one of its objects the promotion of military art, science or literature;

bands of
music.

- (iii) for aiding the establishment or maintenance of military bands of music;

- (b) by the councils of all municipalities,

- (i) for aiding the establishment or maintenance of local war savings or loan committees;

- (ii) for aiding the establishment or maintenance of local civilian defence committees; and

- (iii) for providing moneys for air-raid precaution or other similar work within the municipality. 1939, 2nd Sess., c. 6, s. 6; 1940, c. 18, s. 12; 1941, c. 35, s. 11; 1943, c. 16, s. 9; 1944, c. 39, s. 37.

388.—(1) By-laws may be passed by the councils of local municipalities:

R.S.O. 1937, c. 266, s. 405, *part*.

[NOTE.—For special provisions relating to the exercise by townships of certain of the following powers, see subsections 2 and 3 of this section.]

Animals and Birds

1. For regulating the keeping of domestic fowl or pigeons or cattle, goats, swine, horses, rabbits, mink, foxes or other animals, or kennels for the breeding or boarding of cats and dogs, within the municipality or defined areas thereof. Regulating the keeping of animals, etc.
2. For prohibiting the keeping of domestic fowl or cattle, goats, swine, rabbits, mink, foxes or other animals, except horses or mules, within the municipality or defined areas thereof. 1946, c. 60, s. 49 (2). Prohibiting keeping of animals, etc.
3. For providing sufficient yards and enclosures for the safe keeping of such animals as it may be the duty of the pound-keeper to impound. Providing pounds.
4. For prohibiting or regulating within any part of the municipality or within any defined area thereof, or upon any defined highways therein, the running at large or trespassing of animals, other than dogs, and for providing for impounding them and for causing them to be sold, if they are not claimed within a reasonable time, or if the damages, fines and expenses are not paid according to law. Animals running at large.
5. For appraising the damages to be paid by the owners of animals impounded for trespassing, contrary to law or the by-laws of the municipality. Appraising the damages.
6. For determining the compensation to be allowed for services rendered in carrying out the provisions of any Act, with respect to animals impounded or distrained and detained in the possession of the distrainor. Compensation for impounding animals.

- (a) Any by-law passed by the council of any town, village or township under the provisions of paragraphs 3 to 6 shall apply to any county highway or part thereof situate within such town, village or township. R.S.O. 1937, c. 266, s. 405, pars. 48-51.

Buildings

7. For regulating the size and strength of frame, wooden, brick, stone, cement and concrete walls, and of the foundations and foundation walls, beams, joists, rafters, roofs and their supports of all buildings to be erected, altered or repaired, and for requiring the production of the plans of all buildings, and for charging fees for the inspection and approval of such plans, and fixing the amount of the fees and for the issuing of a permit certifying to such approval without which permit no building or structure may be erected, altered or repaired. R.S.O. 1937, c. 266, s. 407, par. 4 and s. 425, par. 1, *part* [1946, c. 60, s. 55 (1)], *amended*. Size and strength of walls, etc., and production of plans.

Interior
walls and
ceilings.

8. For requiring the interior side of the exterior walls and the ceilings and both sides of the partition walls of buildings, or any class of buildings, to be lathed and plastered or otherwise covered with adequate material. 1939, c. 30, s. 26, and R.S.O. 1937, c. 266, s. 425, par. 1, *part* [1946, c. 60, s. 55 (1)], *amended*.

Ascertain-
ing levels
of cellars,
etc.

9. For requiring owners and occupants to furnish the council with the levels, with reference to a line fixed by by-law, of their cellars heretofore or hereafter dug or constructed, and for taking such other means as may be deemed necessary for ascertaining such levels.

Compelling
the furnish-
ing of
ground or
block plan
of buildings
to be erected.

10. For requiring to be deposited with an officer named in the by-law, before the erection of a building is commenced, a ground or block plan of the building, with the levels of the cellars and basements, with reference to a line fixed by by-law. R.S.O. 1937, c. 266, s. 407, pars. 8, 9, and s. 425, par. 1, *part*, [1946, c. 60, s. 55 (1)], *amended*.

Regulation
etc., of
heating
plant and
equipment.

11. For regulating, controlling and inspecting all hot air, hot water and steam heating plants and equipment, or any classes thereof, and the installation thereof; and for requiring the production of plans of all installations of such plant and equipment and alterations or additions thereto, and for charging fees for the inspection and approval of such plans, and fixing the amount of the fees; and for the issuing of a permit certifying to such approval and for requiring that without such permit no such plant and equipment may be installed, altered or added to. 1948, c. 59, s. 14 (1) and R.S.O. 1937, c. 266, s. 425, par. 1, *part* [1946, c. 60, s. 55 (1)], *amended*.

Regulating
removal and
wrecking of
buildings.

12. For regulating the removing or wrecking of buildings, and the spraying thereof during such work so as to prevent dust or rubbish arising therefrom. R.S.O. 1937, c. 266, s. 407, par. 5 and s. 425, par. 1, *part* [1946, c. 60, s. 55 (1)], *amended*.

Doors of
public build-
ings.
Rev. Stat.,
cc. 111,
389, 126.

13. For regulating, subject to the provisions of *The Egress from Public Buildings Act*, *The Theatres and Cinematographs Act*, and *The Factory, Shop and Office Building Act*,

- (a) the size and number of doors, aisles, halls and stairs in and other means of egress from hospitals, schools, colleges, churches, theatres, halls, or other buildings used as places of worship, or of public resort, or amusement, or for public meetings, and the street gates leading to them;
- (b) the construction and width of stairways in such buildings, and in factories, warehouses, hotels, boarding and lodging houses;

- (c) the materials of which and the manner in which stairs and stair-railings shall be constructed, and the strength of walls, beams and joists and their supports in all such buildings; and
- (d) for requiring the production of the plans of the buildings mentioned in this paragraph now erected or which it is proposed to erect, and for prohibiting the use or erection of them until the provisions of the by-law are complied with to the satisfaction of the architect of the corporation or an officer appointed for the purpose.
14. For prohibiting and preventing the obstruction by persons or things of the halls, aisles, passage-ways, alleys or approaches in or leading to any such building during the occupation of it by a public assemblage. Obstruction of halls, aisles, etc.
- (a) While any building mentioned in clause *a* of paragraph 13 in a city or town is occupied by a public assemblage, the chief constable or any constable of the city or town may enter it to see that the by-law is not being violated, and may require the removal of any obstruction or of any person standing, sitting or otherwise occupying any hall, aisle, passage-way, alley or approach, except for passing to and fro. Powers of police officers as to seeing that by-laws enforced.
R.S.O. 1937, c. 266, s. 405, pars. 14, 15.
15. For requiring every owner of land upon which there is erected a building used or intended to be used for commercial purposes to keep in repair any portion of his land lying between the building and the street line which is used by the public as part of the sidewalk on such street. 1949, c. 61, s. 10 (1), *part*. Owner's duty to repair land in front of commercial buildings.

Explosives

16. For regulating the keeping, storing and transporting of, Regulating storing and transportation of explosives.
- (a) dynamite, dualin, nitro-glycerine or gunpowder;
- (b) petroleum, gasoline or naphtha; and
- (c) other dangerous or combustible, inflammable or explosive substances.
17. For regulating and providing for the support by fees of magazines belonging to private persons for the storage of the substances mentioned in clause *a* of paragraph 16, and for requiring them to be stored in such magazines. Fees for support of magazines.
18. For erecting and maintaining within or without the limits of the municipality magazines for the storage of the substances mentioned in clause *a* of paragraph 16, and for Erecting and maintaining magazines.

acquiring the land necessary for that purpose, and for requiring such substances to be stored in such magazines.

Limiting
quantity to
be kept.

19. For limiting the quantity of the substances mentioned in clause *a* of paragraph 16 which may be kept in any place other than such a magazine, and for regulating the manner in which the same are to be kept or stored.

Prohibiting
manufac-
ture of
explosives.

20. For prohibiting or regulating the establishment within the municipality of factories or other places for the manufacture or storage of any of the substances mentioned in clause *a* of paragraph 16.

Submission
of plans of
premises.

21. For requiring the submission of plans of the premises including the buildings upon or in which it is proposed that such manufacture or storage shall take place, and the approval of them by the council before the manufacture or storing is commenced.

Height and
description
of fences
around
buildings.

22. For requiring such buildings to be surrounded by walls or fences and for regulating the height and description of such walls or fences and their distance from such buildings, and also the distance from any other building, at which such manufacture or storage may be carried on.

Regulating
business of
manufac-
turing ex-
plosives.

23. For regulating the carrying on of the business of manufacturing or storing such substances, whether the business has been heretofore or is hereafter established, and prescribing the precautions to be taken for the prevention of fires and accidents from the combustion or explosion of such substances.

Licences
for carrying
on business.

24. For granting licences for the carrying on of the business of manufacturing the substances mentioned in paragraph 16 or for storing them in quantities of more than twenty-five pounds, and prescribing the time, not exceeding five years, during which the licences shall remain in force, provided that the licence fee shall not exceed \$25 a month for every month in which such business is carried on.

Storing, etc.,
of gasoline,
etc.

25. For prohibiting or regulating the keeping or storing of gasoline or benzine, and prescribing the materials of which the vessels containing it shall be composed, and the classes of buildings in which it may be stored or kept for sale, and for making regulations for the prevention of fires and accidents from the combustion or explosion of such substances.

Fences

Height and
kind of
fence.

26. For prescribing the height and description of lawful fences.

Along
highways.

27. For prescribing the height and description of, and the manner of maintaining, keeping up and laying down fences

along highways or parts thereof, and for making compensation for the increased expenses, if any, to persons required so to maintain, keep up or lay down any such fence.

28. For determining how the cost of division fences shall be apportioned, and for providing that any amount so apportioned shall be recoverable under *The Summary Convictions Act*, provided that until a by-law is passed, *The Line Fences Act* shall apply. Division fences, apportionment of cost. Rev. Stat., cc. 379, 209.

29. For requiring proper and sufficient protection against injury to persons or animals by fences constructed wholly or partly of barbed wire or any other barbed material to be provided by the owner of the land, and in towns and cities for prohibiting the erection along the highways of fences made wholly or partly of barbed wire or any other barbed material. Barbed wire fences.

30. For requiring the owners of land to erect and maintain a water gate where a fence crosses an open drain or water-course. R.S.O. 1937, c. 266, s. 405, pars. 16-30. Water gates

Fire Matters

31. For acquiring land and erecting thereon a fire hall and for purchasing and installing fire engines, apparatus and appliances for fire-fighting and fire protection, and for issuing debentures therefor without the assent of the electors. 1947, c. 69, s. 32 (1), *part*. Fire halls, fire-fighting equipment.

32. For appointing fire wardens, fire engineers and firemen and for promoting, establishing and regulating fire, hook-and-ladder and property saving companies. 1948, c. 59, s. 13 (1), *part*. Establishing fire companies, etc.

33. For securing against accident by fire the inmates and employees and others in factories, hotels, boarding houses, lodging houses, warehouses, theatres, music halls, opera houses and other buildings used as places of public resort or amusement. R.S.O. 1937, c. 266, s. 405, par. 31. Providing against accidents by fire.

34. For regulating smoking in retail shops in which 10 or more persons are employed, or in any class or classes thereof, and for prohibiting smoking in such shops or any class or classes thereof, or in any part or parts thereof. 1950, c. 46, s. 18 (2), *part*. Smoking in shops.

35. Subject to the provisions of any other Act requiring fire escapes, for compelling the owners and occupants of buildings more than two storeys in height, except private dwellings, to provide proper fire escapes therefor in such places, of such pattern and mode of construction as may be deemed proper, and for prohibiting the occupation of any such buildings unless such fire escapes are provided. R.S.O. 1937, c. 266, s. 405, par. 32. Compelling provision of fire escapes.

Prescribing
times for
setting fires
and pre-
cautions.

36. For prescribing for the whole or any part of the municipality the times during which fires may be set in the open air, and the precautions to be observed by persons setting out fires. R.S.O. 1937, c. 266, s. 405, par. 33; 1941, c. 35, s. 12 (2).

Discharge
of firearms,
fireworks,
etc.

37. For prohibiting or regulating the discharge of guns or other firearms, and the firing and setting off of fireballs, squibs, crackers or fireworks. R.S.O. 1937, c. 266, s. 405, par. 34.

Erection of
buildings,
etc.

38. For regulating the construction, alteration or repairs of buildings.

Wooden
buildings.

39. For prohibiting the erection of wooden buildings or wooden additions, and of wooden fences, or the removal of any such building or fence from one place to another in defined areas of the municipality.

Kind of
walls.

40. For prohibiting the erection or placing within defined areas of buildings or additions to them without foundations and foundation walls or with external and party walls other than of brick, portland cement, concrete, steel, stone, tile, terracotta or other incombustible material or of one or more of such materials or other than partly of one or more of such materials and partly of other materials as the by-law may prescribe and also prohibiting roofing of other than incombustible material; provided, however, that such by-laws may allow, in defined areas, buildings for prescribed purposes to be erected or placed not exceeding a prescribed size or height having walls of other than said materials or partly of one or more thereof and partly of other materials as the by-law may provide, with roofing of such materials as the council may determine according to the intended use of such buildings, and such by-laws may prohibit the erection or placing of more than the prescribed number of such buildings on any one lot or parcel of land.

(a) "Incombustible material" as applied to roofing in this paragraph means the material prescribed by the by-law with reference to each defined area.

Repairs to
existing
buildings.

41. For regulating the repairing or alteration of roofs or the external walls of existing buildings within such areas, so that the buildings may be as nearly as practicable fire proof.

Pulling
down, etc.,
buildings
illegally
erected.

42. For authorizing the pulling down or removal, at the expense of the owner, of any building or erection constructed, altered, repaired or placed in contravention of the by-law.

Pulling down
buildings in
ruinous
state.

43. For authorizing the pulling down or repairing or renewing, at the expense of the owner, of any building, fence, scaffolding or erection which, by reason of its ruinous or dilapidated state, faulty construction or otherwise, is in an unsafe condition as regards danger from fire or risk of accident.

44. For prohibiting or regulating the use of fire or lights in factories, stables, cabinet makers' shops, carpenters' shops, paint shops, dye and cleaning works, and places where their use may cause or promote fire. Fire in stables, etc.

45. For prohibiting or regulating the carrying on of manufactures or trades which may be deemed dangerous in causing or spreading fire. Dangerous manufactures.

46. For regulating and inspecting wires and other apparatus placed or used for the transmission of electricity for any purpose in or along any highway or on or in any building, and for requiring any such wire or other apparatus which is deemed unsafe or dangerous to be removed or repaired at the expense of the person to whom it belongs or who is using it. Inspecting and regulating electric wires, etc.

47. For regulating the construction of chimneys, flues, fireplaces, stoves, ovens, boilers or other apparatus or things which may be dangerous in causing or promoting fire, and for removing at the expense of the owner any of them constructed in contravention of the by-law. Construction of chimneys, fireplaces, etc.

48. For regulating the construction as to dimensions and otherwise, and for enforcing the proper cleaning of chimneys. Dimensions and cleaning of chimneys.

49. For regulating the mode of removal and safe keeping of ashes. Removal of ashes.

50. For regulating and enforcing the erection of party walls. Erection of party walls.

51. For requiring the owners and occupants of buildings to have scuttles in the roof, with approaches, or stairs or ladders leading to the roof. Scuttles, ladders, etc., to houses.

52. For requiring buildings and yards to be put in a safe condition to guard against fire or other dangerous risk or accident. Guarding buildings against fire.

53. For requiring each inhabitant to provide as many fire buckets, in such manner and at such time as may be prescribed; and for regulating the inspection of them and their use at fires. Fire buckets.

54. For authorizing appointed officers to enter at all reasonable times upon any property in order to ascertain whether the provisions of the by-law are obeyed, and to enforce or carry into effect the same. Inspection of premises.

55. For suppressing fires, and for pulling down or demolishing buildings or other erections when deemed necessary to prevent the spread of fire. Preventing spreading of fire.

56. For regulating the conduct and enforcing the assistance of persons present and for the preservation of property at fires. Enforcing assistance at fires.

Regulations. 57. For making such other regulations for preventing fires and the spread of fires as the council may deem necessary. R.S.O. 1937, c. 266, s. 407, pars. 18-37 and s. 425, par. 1, *part* [1946, c. 60, s. 55 (1)], *amended*.

Food and Fuel

Regulating the delivery or exposure for sale of meat, etc. 58. For regulating the delivery and exposure for sale upon a highway or in a market or public place of meat, poultry, game, flesh, fish or fruit, or the carcass of any animal.

Inspection of milk and provisions. 59. For appointing inspectors, and for providing for the inspection of meat, poultry, fish and natural products offered for sale for human food, whether on the streets or in public places, or in shops.

Seizing tainted food. 60. For authorizing the seizing and destroying of tainted and unwholesome articles of food.

Power to buy and sell fuel and food. 61. With the approval of the Municipal Board and within the limitations and restrictions and under the conditions prescribed by order of the Board:

- i. For buying and storing fuel and such articles of food as may be designated by order of the Board and for selling the same to dealers and residents of the municipality;
- ii. For acquiring land, erecting buildings, establishing, conducting and maintaining depots, stores, warehouses and yards and purchasing machinery, plant, appliances and equipment necessary for such purposes;
- iii. For appointing officers, clerks and servants to manage and conduct such businesses;
- iv. For making rules and regulations and doing all such other acts and things as may be necessary for the full and proper carrying out of such powers;
- v. For borrowing from time to time by the issue of debentures payable in not more than 10 years from the date of issue the money necessary for such purposes.
 - (a) The by-law need not be assented to by the electors, but shall require a vote of two-thirds of all the members of the council.
 - (b) After the by-law has been approved by the Municipal Board it shall also be approved by the Lieutenant-Governor in Council and may then be finally passed by the council. R.S.O. 1937, c. 266, s. 405, pars. 35-38.

General

62. For fixing the assessment of the property of any person carrying on or proposing to carry on within the municipality any manufacturing business including iron works, rolling mills, works for refining or smelting ores, grain elevators, a beet sugar factory and a tobacco drier, or the land and business of a cold storage plant to which aid by way of loan or grant has been or is being given by the governments of Canada and Ontario or either of them on such terms and conditions as the council may deem proper. Fixed assessment.

- (a) The fixed assessment shall not be for a longer period than 10 years, shall not be renewable and shall not apply to or affect taxation for school purposes or local improvements. Term.
- (b) No by-law shall be passed granting a fixed assessment in respect of a business which has at any time theretofore enjoyed a fixed assessment of the same property. Previous fixed assessment.
- (c) A by-law shall not be passed except with, firstly, the affirmative vote of not less than three-quarters of all the members of the council, and secondly, the assent of not less than two-thirds of the electors qualified to vote on money by-laws who vote on the by-law. Assent of electors, etc.
- (d) No person to whom, and no person who is interested in or holds shares in a company, and no nominee of a corporation to which a fixed assessment is to be granted shall be entitled to vote on the by-law. Who not to vote on by-law.
- (e) No by-law shall be passed granting a fixed assessment in respect of a branch of industry of a similar nature to one established in the municipality unless the person by whom it is carried on consents in writing to the granting of the fixed assessment. When fixed assessment not to be granted.
- (f) No by-law shall be passed granting a fixed assessment in respect of a business established elsewhere in Ontario or which has been removed to the municipality from another municipality in Ontario whether the business is to be carried on by the same person or by a person deriving title or claiming through or under him or otherwise or by such person in partnership with another person or by a joint stock company or otherwise. R.S.O. 1937, c. 266, s. 405, par. 1; 1939, c. 30, s. 24; 1941, c. 35, s. 12 (1); 1946, c. 60, s. 49 (1). Fixed assessment not to be granted to industry established elsewhere.

Bonus by
fixed assess-
ment only.

- (g) Notwithstanding anything in any general or special Act, the power of every municipal corporation in Ontario to grant bonuses in aid of any manufacturing business, including iron works, rolling mills, works for refining or smelting ores, grain elevators, a beet sugar factory and a tobacco drier or the land and business of a cold storage plant to which aid by way of loan or grant has been or is being given by the governments of Canada and Ontario or either of them is limited to a fixed assessment as provided in this paragraph. 1950, c. 46, s. 18 (1).

Industrial
sites.

63. With the assent of the electors qualified to vote on money by-laws, or with the approval of the Department, for acquiring and expropriating land and selling or leasing the land for the purpose of sites for the establishment and carrying on of industries and industrial operations.

General
by-law.

- (a) The assent of the electors may be obtained by the submission of a general by-law authorizing the acquiring or expropriating of land for industrial sites and for borrowing money for that purpose not exceeding a stated amount, and if the assent of the electors is obtained to the by-law the council may by a two-thirds vote of all the members and without further assent of the electors pass by-laws from time to time to borrow money for that purpose by the issue of debentures payable within a term of not more than 30 years from the issue thereof.

Approval of
sales and
leases.

- (b) No land acquired under *The Industrial Sites Act*, being chapter 268 of the Revised Statutes of Ontario, 1937, or acquired under this paragraph shall be sold or leased except with the approval of the Department, and no such approval shall be given if the price or rental is, in the opinion of the Department, less than the fair market value or fair rental value, as the case may be.

Sales and
leases here-
under
deemed not
bonuses.

- (c) Where land acquired under *The Industrial Sites Act*, being chapter 268 of the Revised Statutes of Ontario, 1937, or acquired under a by-law passed under this paragraph, is sold or leased with the approval of the Department, such sale or rental shall be deemed not to be a bonus within the meaning of clause g of paragraph 62. 1950, c. 46, s. 18 (2), *part.*

Establishing
funds for
bands.

64. For providing by means of taxation for the establishment and maintenance of a fund for the support and aid of a civilian band or bands of music and for making annual or other grants from such fund to any civilian band or bands or to the members thereof.

- (a) No by-law shall be passed under this paragraph unless the assent of the electors qualified to vote on money by-laws has first been obtained, and no by-law passed with such assent shall be repealed except with the like assent. Assent of electors requisite.
- (b) Upon a petition for the establishment of a fund under this paragraph being presented to the council of a municipality signed by not less than 15 per cent in number of the electors qualified to vote on money by-laws according to the last revised voters' list, the council shall at the next ensuing annual municipal elections submit a by-law for the establishment of the fund for the assent of the said electors and, if the same is assented to, shall pass the by-law. R.S.O. 1937, c. 266, s. 405, par. 65; 1939, 2nd Sess., c. 6, s. 7. Submission of by-law on petition.

65. For disqualifying from voting an elector whose taxes on land on the day fixed for nomination at the annual election are overdue and unpaid. R.S.O. 1937, c. 266, s. 405, par. 8. Disqualifying electors in arrear for taxes.

66. For borrowing upon debentures of the corporation such sum or sums of money as may be required to complete, improve, alter, enlarge or extend any public utility undertaking, or any part or parts thereof, owned by the corporation and controlled and managed by the council or a public utility commission. Borrowings for public utility extensions, etc.

- (a) In this paragraph, Interpretation.

- (i) "public utility undertaking" means a water works or water supply system, electrical power or energy generating, transmission or distribution system, natural or artificial gas works or supply system, sewer, sewerage or sewage system and a transportation system, and
- (ii) "public utility commission" means a commission or board having the control and management of a public utility undertaking.
- (b) The by-law shall not require the assent of the electors if it is passed by a vote of three-fourths of all the members of the council and is approved by the Municipal Board. Electors' assent not required.
- (c) Such approval may be given if the Municipal Board is satisfied that the proposed work is in the public interest and that the proposed borrowing is required, and the Municipal Board shall have due regard to the financial position of the undertaking and to its Approval of Municipal Board.

net revenues and to the additional revenue, if any, which might be derived as a result of the proposed work.

Application
of para-
graph.

(d) This paragraph shall apply to any municipality operating any such undertaking under the authority of a special Act, and any provision in such special Act requiring the assent of the electors shall not apply to the borrowing of money for the purposes of this paragraph.

Idem.

(e) This paragraph shall not apply to a proposed work which the Department of Health has required a municipality to undertake, as provided in *The Public Health Act*.

Rev. Stat.,
c. 306.

Defined
areas in
townships.

(f) The council of a township may exercise the powers conferred by this paragraph in respect of the whole township or any defined area thereof. 1949, c. 61, s. 10 (1), *part*.

Removal of
snow and ice
from roofs
and side-
walks of
occupied
premises.

67. For requiring the occupants of any designated class of building in the municipality or any defined area thereof to clear away and remove snow and ice from the roofs of such buildings and for requiring the occupants of any designated class of building in the municipality or any designated area thereof to clear away and remove snow and ice from the sidewalks on the highways in front of, alongside or at the rear of such buildings and for regulating when and the manner in which the same shall be done.

Removal of
snow and ice
from roofs
and side-
walks of
unoccupied
premises.

68. For clearing away and removing snow and ice from the roofs of any designated class of unoccupied buildings in the municipality or any designated area thereof and for clearing away and removing snow and ice from the sidewalks on the highways in front of, alongside or at the rear of any designated class of unoccupied buildings or vacant lands at the expense of the owners and for collecting or recovering the expenses incurred in so doing in the manner provided by section 496. 1946, c. 60, s. 49 (4).

Right to
enter
adjoining
lands.

69. For permitting an owner or occupant of any building or the agent or employee of such owner or occupant to enter upon any adjoining land for the purpose of making repairs, alterations or improvements to such building but only to the extent necessary to effect such repairs, alterations or improvements, and every such by-law shall provide that the adjoining land shall be left in the same condition it was in prior to such entry. 1944, c. 39, s. 38 (3), *part*.

Smoke
prevention.

70. For requiring the owner, lessee, tenant, agent, manager or occupant of any premises in, or of a steam boiler in con-

nection with which a fire is burning and every person who operates, uses or causes or permits to be used any furnace or fire, to prevent the emission to the atmosphere from such fire of opaque or dense smoke for a period of more than six minutes in any one hour, or at any other point than the opening to the atmosphere of the flue, stack or chimney.

(a) This paragraph shall not apply to a furnace or fire used in connection with the reduction, refining or smelting of ores or minerals or the manufacture of cement, brick or tiles or to dwelling houses except apartment houses.

(b) No person shall incur a penalty for an infraction of the by-law until 90 days after notice from the corporation of the existence of the by-law and such notice may be given by publication of the by-law in *The Ontario Gazette* and in a daily newspaper for four successive weeks. 1946, c. 60, s. 49 (6).

71. For prohibiting sparring exhibitions and boxing matches, where an admission fee is charged, without the written permission of the chief constable in a city or town, or of the reeve in townships and villages. R.S.O. 1937, c. 266, s. 405, par. 59. Sparring exhibitions and boxing matches.

72. For appointing an Ontario land surveyor as surveyor for the corporation and for appointing one or more engineers. Corporation surveyor and engineers.

(a) An engineer so appointed and his assistants shall in the performance of their duties possess all the powers, rights and privileges which a surveyor possesses under section 6 of *The Surveys Act*. R.S.O. 1937, c. 266, s. 414, par. 12, and s. 423, par. 16, *part* [1946, c. 60, s. 54 (2); 1948, c. 59, s. 17 (2)], *amended*. Powers of engineer. Rev. Stat., c. 381.

73. For requiring persons to destroy all tussock moths and the cocoons thereof on trees or elsewhere upon the premises owned or occupied by them. R.S.O. 1937, c. 266, s. 420, par. 17 and s. 423, par. 3, *part, amended*. Destruction of tussock moths.

Health, Sanitation and Safety

74. For prohibiting or regulating the bathing or washing of the person in any public water in or near the municipality. Bathing.

75. For requiring the owners, contractors or master workmen engaged in the erection or construction of buildings or public works to provide for the use of the workmen employed in such erection or construction, closet accommodation, to be approved of by the medical health officer, in connection with them. R.S.O. 1937, c. 266, s. 405, pars. 2, 3. Conveniences to be provided by builders.

Contagious diseases.

. 76. For providing blank forms for recording and reporting cases of contagious or infectious diseases; for placarding houses wherein such cases exist, and for taking such measures as may be deemed necessary for preventing the spread of such diseases. R.S.O. 1937, c. 266, s. 405, par. 7.

Construction of cellars, drains, etc.

77. For regulating the construction of cellars, sinks, cesspools, water closets, earth closets, privies and privy vaults; for requiring and regulating the manner of the draining, cleaning and clearing and disposing of the contents of them.

Dry earth closets.

78. For requiring the use within the municipality or a defined area of it of dry earth closets. R.S.O. 1937, c. 266, s. 405, pars. 9, 10.

Expenses of cleaning closets, etc.

79. For providing that the cleaning and disposing of the contents of cesspools, water closets, earth closets, privies and privy vaults shall be done exclusively by the corporation.

Powers.

(a) For such purpose the corporation, its officers and servants shall have all the powers of the local board of health and its officers and servants.

Fixed or graded fees.

(b) The council may provide for the expense incurred in such work by imposing in the by-law authorizing the work or in a separate by-law a fixed fee or graded fees varying according to the different kind of premises served, the time involved in service and such other matters as the council may consider applicable, and such fees shall be rated and assessed against the lands in respect of which such services are rendered in the collector's roll of the municipality and collected and recovered in like manner as municipal taxes.

Special rate, assessed value or monthly.

(c) The council may provide that the collection, removal and disposal by the corporation of the contents of earth closets or other sanitary closets throughout the whole municipality, or in defined areas of it, shall be done at the expense of the owners, householders or occupants of the land therein, and where such service is at the expense of the owner may impose upon such land a special rate according to its assessed value which shall be collected and recovered in like manner as municipal taxes, or may impose upon the owners, householders and occupants of any building on such land a monthly rate in lieu of such special rate which shall be collected and recovered in like manner as municipal taxes. R.S.O. 1937, c. 266, s. 405, par. 11; 1943, c. 16, s. 10 (1).

Filling up, draining, etc., grounds, yards, etc.

80. For requiring and regulating the filling up, draining, cleaning, clearing of any grounds, yards and vacant lots and the altering, relaying or repairing of private drains.

81. For making any other regulations for sewerage or drainage that may be deemed necessary for sanitary purposes. Regulations for sewerage, etc. R.S.O. 1937, c. 266, s. 405, pars. 12, 13.

82. For requiring owners, lessees and occupants of land in the municipality or any defined area of it to close or fill up water closets, privies, privy vaults, wells or cesspools, the continuance of which may, in the opinion of the council or the medical health officer, be dangerous to health. Closing and filling up cesspools, etc. R.S.O. 1937, c. 266, s. 405, par. 62.

83. For prohibiting the obstruction of any drain or water-course, and for permitting and regulating the size and mode of construction of culverts and bridges which cross any drain or watercourse situate on a public highway. Obstruction of drains. R.S.O. 1937, c. 266, s. 405, par. 61.

84. For establishing and maintaining a system for the collection, removal and disposal of garbage or of garbage and other refuse or of ashes, garbage and other refuse, and for contracting with any person for the collection, removal and disposal by him of ashes, garbage and other refuse upon such terms and conditions as may be deemed expedient, and for acquiring land within the municipality or in any adjacent municipality with the consent of the council thereof for any of the purposes of this paragraph, and for erecting and maintaining with the approval of the Department of Health such buildings, machinery and plant as may be deemed necessary for the purposes of this paragraph. Collection, removal and disposal of garbage, etc.

(a) The corporation may borrow money for any of the purposes of this paragraph by the issue of debentures and may levy therefor in respect of any of the purposes of this paragraph on the rateable property in the municipality or in defined areas thereof. 1946, c. 60, s. 53; 1943, c. 16, s. 16 and R.S.O. 1937, c. 266, s. 425, par. 7, *part* (1943, c. 16, s. 15).

85. For entering into an agreement with any adjoining municipality for the disposal by such municipality of ashes, garbage and other refuse upon such terms and conditions as may be deemed expedient. Agreement re garbage disposal with adjoining municipality. 1943, c. 16, s. 12 (1), *part*, s. 16 and R.S.O. 1937, c. 266, s. 425, par. 7, *part* (1943, c. 16, s. 15).

86. For the collection, removal and disposal by the corporation of garbage or of garbage and other refuse or of ashes, garbage and other refuse throughout the whole municipality or in defined areas of it at the expense of the owners and occupants of the land therein, and for imposing upon such land according to its assessed value a special rate to defray the expense of such collection, removal and disposal. Special rate for cost.

No land
exempt.

- (a) Subject to clause *c* no land shall be exempt from the special rate, notwithstanding anything to the contrary in any general or special Act or in any by-law.

Recovery
of special
rate.

- (b) The special rate may be collected or recovered in the manner provided by section 496.

Special
rate on
churches.

- (c) In the case of a place of worship the council may by by-law provide that the special rate shall be imposed upon the land according to its assessed value exclusive of the assessed value of the buildings. R.S.O. 1937, c. 266, s. 414, par. 2 and s. 425, par. 7, *part* (1943, c. 16, s. 15) and 1943, c. 16, s. 16.

Monthly
rates.

87. For charging the owners, householders or occupants of any building in the municipality a monthly rate in lieu of the special rate for such collection, removal and disposal of ashes, garbage or other refuse and for providing that the monthly rate may be collected or recovered in the manner provided by section 496 and for the exemption of any class of land owners, householders or occupants from the monthly rate. 1943, c. 16, s. 12 (1), *part*, s. 16 and R.S.O. 1937, c. 266, s. 425, par. 7, *part* (1943, c. 16, s. 15).

Construction
of hoists,
scaffolding,
etc.

88. For regulating and inspecting the construction and erection of hoists, scaffolding and other apparatus and appliances used in erecting, repairing, altering or improving buildings, chimneys, or other structures, and for making regulations for the protection and safety of workmen and others employed thereon; and for appointing inspectors of scaffolding. R.S.O. 1937, c. 266, s. 405, par. 40.

Maintaining
public con-
veniences.

89. For constructing and maintaining lavatories, urinals, water closets and like conveniences, where deemed requisite, upon the highways or elsewhere, and for supplying them with water, and for defraying the expense thereof and of keeping them in repair and good order. R.S.O. 1937, c. 266, s. 414, par. 5 and s. 425, par. 17, *part*, *amended*.

Extension
of sewers
into adjoining
municipality.

90. Where a local municipality is so situate that it is necessary, in order to procure an outlet for a sewer or to connect it with a sewage farm, to extend it into or through an adjacent municipality, for so extending it, or for extending and connecting it with any existing sewer of such adjacent municipality, upon such terms and conditions as may be agreed upon, or in case of failure to agree, as may be determined by arbitration.

Arbitrator
to determine
conditions
on which
connections
may be
made.

- (a) Where the council of the adjacent municipality objects to allow such extension or connection, the arbitrator shall determine not only the terms and conditions upon which the extension or connection is to be made, but also the location of the sewage farm,

filtering plant or artificial means of sewage disposal which is contemplated, and whether the extension or connection should be allowed to be made.

- (b) Nothing in this paragraph shall authorize the making of an open drain or sewer, or affect the provisions of *The Ditches and Watercourses Act*, or limit any of the powers conferred on townships by that Act. R.S.O. 1937, c. 266, s. 405, par. 52. Rev. Stat., c. 105.

91. For prohibiting or regulating and inspecting the erection or continuance of slaughter houses, and for prohibiting the slaughter of animals intended for food, except in slaughter houses designated in the by-law, provided that in towns, villages and townships this paragraph shall not apply to the slaughter of animals for the use of the person killing them or of his family. R.S.O. 1937, c. 266, s. 405, par. 56. Slaughter houses.

Highways and Sidewalks

92. Subject to *The Municipal Franchises Act*, for entering into an agreement with any person for a period not exceeding 10 years for granting to such person the exclusive right to maintain and operate buses for the conveyance of passengers in a defined area of the municipality, over such highways in the area and at such rates for fares and charges and on such other terms and conditions as may be thought proper. Bus franchises. Rev. Stat., c. 249.

- (a) The agreement may provide that any deficit in operation shall be met by a special rate levied on all the rateable property in the defined area.
- (b) The defined area shall not include any part of the municipality covered by an agreement to which the corporation is a party respecting the furnishing of transportation facilities for passengers.
- (c) The agreement shall not affect a licence granted under *The Public Vehicles Act*. Rev. Stat., c. 322.
- (d) The rates for fares and charges may from time to time, but only once in any year, be increased or decreased by the Municipal Board on the application of the corporation in consequence of a deficit or surplus in the operation of the service. 1944, c. 39, s. 38 (3), *part*; 1946, c. 60, s. 49 (5).

93. For prohibiting or regulating coasting or tobogganing on the highways. R.S.O. 1937, c. 266, s. 405, par. 63. Coasting and tobogganing

94. For prohibiting children from riding on the platforms of cars, or riding behind or getting on wagons, sleighs or Prohibiting children from riding behind wagons, etc.

other vehicles while in motion, and for preventing accidents arising from such causes. 1948, c. 59, s. 13 (1), *part*.

Buildings
encroaching
on highway.

95. For allowing any person owning or occupying any building or other erection which by inadvertence has been wholly or partially erected upon any highway to maintain and use such erection thereon and for fixing such annual fee or charge as the council may deem reasonable for such owner or occupant to pay for such privilege.

- (a) Such fee or charge shall form a charge upon the land used in connection therewith and shall be payable and payment of it may be enforced in like manner as taxes are payable and the payment of them may be enforced, but nothing herein shall affect or limit the liability of the municipality for all damages sustained by any person by reason of any such erection upon any highway.

Use of
highway or
boulevard
during
building
operations.

96. For permitting the use of a portion of any highway or boulevard by the owner or occupant of land adjoining such highway or boulevard during building operations upon such land for the storage of materials for such building or for the erection of hoardings; for fixing a fee or charge for such use according to the area occupied and the length of time of such occupation and to collect the same, and for regulating the placing of such materials or hoardings, the restoration of such highway or boulevard to its original condition, the payment of such fee or charge, and the giving of permits for such privilege. R.S.O. 1937, c. 266, s. 420, pars. 12, 13 and 1943, c. 16, s. 14, *part, amended*.

Projections.

97. For permitting cornices, eaves, awning containers, awning covers, sills, brackets and other similar projections beyond the main walls of buildings to encroach upon a highway at a height of not less than eight feet above the grade thereof established by the corporation. 1938, c. 22, s. 7.

Marking the
boundaries
of and
naming
streets, etc.

98. To provide for surveying, settling and marking the boundary lines of highways and giving names to them or changing their names, and for affixing the names at the corners thereof, on public or private property.

Proceedings
for changing
names of
streets.

- (a) A by-law for changing the name of a highway shall not have any force or effect unless passed by a vote of at least three-fourths of all the members of the council, or until a copy of it certified under the hand of the clerk and the seal of the corporation has been registered in the registry office of the proper registry division.
- (b) A by-law for changing the name of a highway in a city or town shall state the reason for the change,

and shall not be finally passed until it has been approved by a judge of the county or district court of the county or district in which the municipality is situate.

- (c) The judge, on the application of the council, shall appoint a day, hour and place for considering the by-law and for hearing those advocating and opposing the change.
- (d) A copy of the by-law and of the appointment shall be served on the registrar of the registry division in which the municipality is situate at least two weeks before the time appointed, and a notice of the application in such form as the judge may approve shall be published once in *The Ontario Gazette* at least two weeks before the time so appointed, and at least once a week for four successive weeks in such other newspaper or newspapers as the judge may direct.
- (e) If the judge approves of the change he shall so certify and his certificate shall be registered with the by-law, and the change shall take effect from the date of the registration. 1948, c. 59, s. 13 (1), *part*.

99. For regulating and, subject to *The Municipal Franchises Act* and on such terms and conditions as the council may deem expedient, for authorizing the erection and maintenance of electric light, power, telegraph and telephone poles and wires and poles and wires for the transmission of electricity across or along any highway or public place, or permitting any person supplying electricity for light, heat or power, to lay down pipes or conduits for enclosing wires for the transmission of electricity under any highway or public place, provided that a by-law shall not be passed under this paragraph in violation of any agreement of the corporation.

Laying of poles, wires, pipes or conduits on street.
Rev. Stat., c. 249.

100. Subject to *The Power Commission Act*, for constructing or laying down pipes or conduits for enclosing wires for the transmission of electricity under, or for erecting towers or poles for the support of wires for such purpose across or along any highway or public place, and for entering into agreements with electric light or power, telegraph or telephone companies for the use by them of such pipes, conduits or poles, for such consideration and on such terms and conditions as may be agreed upon. R.S.O. 1937, c. 266, s. 405, pars. 46, 47.

Laying pipes or conduits for electric wires.
Rev. Stat., c. 281.

101. For authorizing any person supplying steam for heat or power to lay down pipes or conduits for transmitting steam under the highways or public squares, on such terms and conditions as the council may deem expedient.

Transmitting steam under highways.

- (a) A by-law shall not be passed under the authority of this paragraph in violation of any agreement of the corporation. R.S.O. 1937, c. 266, s. 405, par. 60.

Water and
gas pipes
in highways.
Rev. Stat.,
c. 249.

102. Subject to *The Municipal Franchises Act*, for authorizing the laying down, maintenance and use of pipes and other necessary works for the transmission of water or gas on, in, under, along or across any highway under the jurisdiction of the council. 1950, c. 46, s. 18 (2), *part*.

Driving,
etc., upon
sidewalks.

103. For prohibiting the leading, riding or driving of horses or cattle upon sidewalks or in other places not proper therefor. 1948, c. 59, s. 13 (1), *part*.

Spitting on
sidewalks,
in public
buildings,
etc.

104. For prohibiting spitting on sidewalks and pavements, and in the passages and stairways of and entrances to public buildings, and in buildings, halls, rooms and places to which the public resort, in street cars and public conveyances and in such other public places as may be designated in the by-law. R.S.O. 1937, c. 266, s. 405, par. 64.

Use of
highways
to solicit
business.

105. For prohibiting persons from soliciting or importuning, on a highway or in a public place, others to travel in or employ any vessel or vehicle, or to go to any hotel or boarding house or lodging house, or for regulating persons so employed.

- (a) A by-law passed under the authority of this paragraph may be made applicable only to one or more highways or public places named therein or to any defined area. 1949, c. 61, s. 10 (1), *part*.

Telephone
booths.

106. For authorizing the erection of public telephone booths upon the highways or lands of the municipality upon such terms and conditions as may be agreed upon; and for making such annual or other charge for the privilege conferred as the council may deem reasonable. 1947, c. 69, s. 32 (1), *part*.

Regulating
traffic,
Rev. Stat.,
c. 167.

107. Subject to *The Highway Traffic Act*, for regulating traffic on the highways and for prohibiting heavy traffic as defined in the by-law and the use of traction engines and the driving of cattle, sheep, pigs and other animals during the whole or any part of the day or night in certain highways and public places named in the by-law, and for prohibiting traffic in any but one direction in highways which in the opinion of the council are too narrow for the passing of one vehicle by another or in which, in the opinion of the council, it is desirable that traffic should be limited to one direction.

Expedition
procedures
authorized
for parking
offences.

- (a) A by-law under this paragraph may provide a procedure for the voluntary payment of penalties out of court in cases where it is alleged that the parking provisions of the by-law have been contravened, and if payment is not made in accordance with the

procedure subsection 2 of section 492 shall apply. 1948, c. 59, s. 13 (1), *part*.

108. For setting aside and designating in a suitable visible manner, on any highway upon which street cars or buses are operated, any part or parts as a "safety zone" and for prohibiting motor or other vehicles from driving over or upon any such safety zone while any pedestrian is thereon or about to enter thereon. 1948, c. 59, s. 13 (1), *part*. Safety zones.

109. Requiring all residents in the municipality owning and using any wheeled vehicle other than a motor vehicle as defined in *The Highway Traffic Act* to obtain a licence therefor before using the same upon any highway of the city; limiting the weight or size of loads that may be carried thereon; regulating the issuing of such licences and the collection of fees therefor; fixing an annual fee not exceeding \$1 for such licences, which shall be approved of by the Municipal Board; fixing a scale of fees for different vehicles; imposing penalties not exceeding \$5 exclusive of costs upon all persons who contravene any such by-law; and providing that such penalties may be recoverable in the manner provided by this Act. Licensing users of wheeled vehicles. Rev. Stat., c. 167.

- (a) The by-law may apply to any one or more classes or kinds of wheeled vehicles. R.S.O. 1937, c. 266, s. 420, par. 11; 1941, c. 35, s. 15 (2) and 1943, c. 16, s. 14, *part, amended*.

Nuisances, Signs, etc.

110. For prohibiting or regulating the erection or continuance of gas works, tanneries, or distilleries or other manufactories or trades which, in the opinion of the council, may prove to be or may cause nuisances. R.S.O. 1937, c. 266, s. 405, par. 39. Gas works, distilleries, etc.

111. For regulating manufactures and trades which in the opinion of the council may prove to be or may cause nuisances. Noxious manufactures and trades.

112. For prohibiting or regulating the ringing of bells, the blowing of horns, shouting and unusual noises, or noises calculated to disturb the inhabitants. Ringing of bells, etc.

113. For prohibiting and abating public nuisances. Nuisances.

114. For prohibiting the hauling of dead horses, offal, night soil or any other offensive matter or thing along any highway during the hours of daylight. R.S.O. 1937, c. 266, s. 405, pars. 41-44. Hauling dead horses, etc., through the streets in daylight.

115. For prohibiting the making of pits and quarries in the municipality or regulating the location of them, provided that the making or locating of a pit or quarry in contra- Pits and quarries.

vention of the by-law in addition to any other remedy may be restrained by action at the instance of the corporation. 1948, c. 59, s. 13 (1), *part*.

Location of
stables,
garages, etc.

116. For regulating the location, erection and use of stables, garages, barns, outhouses and manure pits. 1948, c. 59, s. 13 (1), *part*.

Indecent
placards,
etc.

117. For prohibiting the posting or exhibition of placards, play bills, posters, writings or pictures or the writing of words, or the making of pictures or drawings, which are indecent or may tend to corrupt or demoralize, on any wall or fence or elsewhere on a highway or in a public place. R.S.O. 1937, c. 266, s. 405, par. 45.

Posters.

118. For prohibiting or regulating the erection of signs or other advertising devices, and the posting of notices on buildings or vacant lots within any defined area or areas or on land abutting on any defined highway or part of a highway.

Pulling
down of
signs and
notices.

119. For prohibiting the pulling down or defacing of signs or other advertising devices and notices lawfully affixed. R.S.O. 1937, c. 266, s. 405, pars. 54, 55.

Trades and Businesses

Fixing time
for delivery
of coal.

120. For requiring every dealer in coal who takes orders for coal for future delivery, and accepts payment in full or on account of such order, to deliver to the purchaser the coal so ordered within the time or times fixed by the by-law. R.S.O. 1937, c. 266, s. 405, par. 4.

Public
garages,
licensing, etc.

121. For licensing and regulating the owners of public garages, and for fixing the fees for such licences, and for revoking such licences, and for imposing penalties for breaches of such by-law and for the collection thereof.

(a) For the purpose of this paragraph, a public garage includes a parking station or a parking lot or a building or place where motor vehicles are hired or kept or used for hire or where such vehicles or gasoline or oils are stored or kept for sale, and a building or place used as a motor vehicle repair shop or for washing or cleaning motor vehicles. R.S.O. 1937, c. 266, s. 420, par. 14; 1941, c. 35, s. 15 (3); 1948, c. 59, s. 16 (1), and 1943, c. 16, s. 14, *part, amended*.

Automobile
service
stations.

122. For licensing, regulating and governing the owners or keepers of automobile service stations located or erected since the 25th day of June, 1928, within any defined area or areas or on land abutting on any defined highway or part of a highway in which area or areas or on which land the erection or location

of garages to be used for hire or gain or gasoline and oil filling stations was on the said date or at any time thereafter prohibited by a by-law, and for fixing a fee not exceeding \$10 for such licence, and for providing that a licence shall not be granted to any person as an owner of a public garage located or erected within any such area or on any such land notwithstanding that prior to the passing of this section any such person may have been granted a licence as the owner of a public garage.

- (a) For the purposes of this paragraph, an automobile service station means a building or place where gasoline, oil, grease, anti-freeze, tires, tubes, tire accessories, electric light bulbs, sparkplugs and batteries for motor vehicles are stored or kept for sale, or where motor vehicles may be oiled, greased, or washed, or have their ignition adjusted, tires inflated or batteries charged, or where only minor or running repairs essential to the actual operation of motor vehicles are executed or performed.
- (b) No person owning or keeping an automobile service station licensed under this paragraph shall use or permit the same to be used for the purpose of wrecking, parking, storing or selling motor vehicles, or, except in an enclosed building for washing motor vehicles, or for vulcanizing tires or tubes or for exhibiting for sale any accessories mentioned in clause *a* except in an enclosed building, or for exhibiting the same for sale in any display window, or for performing therein any repairs to motor vehicles other than those mentioned in clause *a*, or for storing and keeping for sale any article, accessory or merchandise of any kind other than those expressly mentioned in clause *a* hereof, and it shall be the duty of such owner or keeper to prevent the use of an automobile service station for any such prohibited purpose.
- (c) The owner or keeper of an automobile service station guilty of any infraction of any of the provisions of clause *b* shall be subject to the penalties set forth in the by-law permitting the location or erection thereof or the licensing of the same as for an infraction of such by-law.
- (d) Nothing in this paragraph shall be deemed to authorize the location or erection of any automobile service station contrary to any by-law in force under the provisions of section 390.

123. For limiting the number of public garages and automobile service stations where gasoline is stored or kept for

Limitation
of number
of garages,
etc.

sale. R.S.O. 1937, c. 266, s. 420, pars. 15, 16, and 1943, c. 16, s. 14, *part, amended.*

Heating and
cooking
equipment.

124. For regulating, controlling and inspecting heating and cooking appliances, or any classes thereof, the installation thereof and the storage of fuel for use in connection therewith. 1947, c. 69, s. 32 (1), *part.*

Persons
installing
heating
equipment.

125. For licensing, regulating and governing persons engaged in the installation of hot air, hot water and steam heating equipment of any kind. 1938, c. 22, s. 7.

Lending
libraries.

126. For licensing, regulating and governing lending libraries which are carried on or operated for the purpose of profit or gain.

(a) The fee to be paid for the licence shall not exceed \$2.

(b) Nothing in this paragraph shall apply to or affect the lending or circulation of books, magazines, periodicals or other printed works by any religious body or incorporated educational institution. R.S.O. 1937, c. 266, s. 414, par. 13 and s. 423, par. 16, *part* [1946, c. 60, s. 54 (2); 1948, c. 59, s. 17 (2)], *amended.*

Lodging
houses.

127. For licensing, regulating and governing lodging houses, and the keepers of lodging houses, and for revoking any such licence.

(a) Lodging house means any house or other building or portion thereof in which persons are harboured, received or lodged for hire but does not include an hotel, hospital, home for the young or the aged or institution, provided the hotel, hospital, home or institution is licensed, approved or supervised under any general or special Act.

(b) A by-law passed under this section may provide for the licensing, regulating and governing of any class or classes of lodging houses or lodging house keepers, and may provide for the issue and revocation of licences by the local board of health and for prohibiting the use of premises licensed under the by-law except for the purposes for which the licence was issued and may fix the licence fee for any class or classes of lodging houses in accordance with a scale for each class or the number of inmates permitted in the lodging house. 1947, c. 69, s. 32 (1), *part.*

Special Provisions re Townships

Certain
by-laws of
townships.

(2) A by-law passed by the council of a township under any of paragraphs 7 to 12 and 38 to 57 of subsection 1 may be made

applicable to the township or one or more defined areas thereof as set out in the by-law. R.S.O. 1937, c. 266, s. 425, par. 1; 1946, c. 60, s. 55 (1), *part, amended*.

(3) A by-law passed by the council of a township under *Idem.* paragraph 89 of subsection 1 may provide that the expenses mentioned in the paragraph shall be defrayed by a special rate upon the rateable property in the whole township or in one or more defined areas thereof as set out in the by-law. R.S.O. 1937, c. 266, s. 425, par. 17, *part, amended*.

389.—(1) In this section,

Interpretation.

- (a) "benefit" means an immediate benefit or deferred benefit accruing to owners or occupants of land and derived or derivable from the construction of a sewer or sewer system or sewage works, and
 - (i) "immediate benefit" means the benefit which accrues and is derived or derivable immediately upon completion of the work, and
 - (ii) "deferred benefit" means the benefit which accrues upon completion of the work but which is not derived or derivable therefrom until a sewer upon which the land will abut is constructed as part of the work;
- (b) "capital cost" means the cost of constructing a work, inclusive of all items of cost usually and properly chargeable to capital account, and includes the amount of debentures, and interest thereon, issued to finance the cost of constructing a work, whether paid or unpaid;
- (c) "capital improvement" means an addition to or an extension, enlargement, alteration, replacement or other improvement of a work of such nature or character that it is usually and properly accounted for as a capital asset;
- (d) "land drainage" means storm, surface, overflow, subsurface or seepage waters or other drainage from land, but does not include sewage;
- (e) "sewage" means domestic sewage or industrial wastes, or both;
- (f) "sewage works" means an integral system consisting of a sewer or sewer system and treatment works;
- (g) "sewer" means a public sewer for common use by owners and occupants in carrying away sewage

or land drainage, or both, from land which abuts upon the sewer;

- (h) "sewer system" means a system of two or more interconnected sewers having one or more common discharge outlets and includes necessary pumping plant, force mains, siphons and other like works;
- (i) "treatment works" means buildings, structures, plant, machinery, equipment, devices, intakes and outfalls or outlets and other works designed for the interception, collection, settling, treating, dispersing, disposing or discharging of sewage or land drainage, or both, and includes land appropriated for the above-mentioned purposes and uses;
- (j) "work" means a sewer, sewer system or sewage works or a capital improvement of any of them.

Sewer rate.

(2) Subject to the approval of the Municipal Board first being obtained, the council of a local municipality in authorizing the construction of a sewer, sewer system or sewage works, or a capital improvement of any of them, may by by-law provide for imposing upon owners or occupants of land who derive or will or may derive a benefit from the work a sewer rate sufficient to pay for such portion or percentage of the capital cost of the work as the by-law may specify.

- (a) No sewer rate may be imposed under this subsection where a portion or percentage of the capital cost of a work has been or is specially assessed or assessable for the owners' share of the capital cost under *The Local Improvement Act*.

Rev. Stat.,
c. 215.

Land in
respect of
which sewer
rate im-
posed.

(3) A by-law passed under subsection 2 shall designate the land for which the owners or occupants are made liable for the sewer rate imposed and, where the land designated does not comprise all land within the municipality, the area thereof shall be defined in the by-law.

- (a) The land designated may include not only land for which an immediate benefit accrues but also land for which a deferred benefit accrues.
- (b) Where the sewer rate imposed is for deferred benefit it shall be changed to the sewer rate imposed for immediate benefit as soon as the latter benefit is derived or derivable.

Revenue
from sewer
rates.

(4) Revenue derived in any year from a sewer rate imposed under subsection 2 shall be applied and used towards payment of principal and interest due in that year upon debentures issued for the work for the capital cost of which the

sewer rate is imposed, and the council shall reduce the amount of the debenture rate to be levied for such debentures in any year upon the rateable property liable therefor by the amount of revenue estimated to be derived in that year from the sewer rate.

(5) Where in a local municipality there is land which has not or the owners or occupants of which have not been and are not assessable or taxed with respect to an existing work and a sewer forming part of such existing work is to be constructed by means of which an immediate benefit from the existing work accrues to the owners or occupants of such land, the council may, by by-law passed with the approval of the Municipal Board, provide for imposing upon the owners or occupants so benefited a sewer rate sufficient to pay for such portion or percentage of the capital cost of the existing work as the by-law may specify.

Sewer rate
for cost of
existing
system.

- (a) The sewer rate may be imposed notwithstanding that the capital cost of the existing work has in whole or in part been paid.
- (b) Revenue from the sewer rate if not required for payment of any part of the outstanding capital cost of the existing work shall be applied and used only for future capital improvements of the existing work.
- (c) A sewer rate imposed under this subsection shall be separate from and in addition to the sewer rate, if any, imposed under subsection 2 upon the same owners or occupants with respect to the sewer to be constructed to form part of the existing work.

(6) The council of a local municipality for the purposes of subsections 2 and 5 may, by by-law passed with the approval of the Municipal Board, establish a sewer rate structure upon which sewer rates imposed under subsection 2 or 5 shall be based and calculated and, in establishing the rate structure the council shall have regard to differentiating between the several classes of works, the kinds of benefits accruing and all other relevant matters to ensure that sewer rates are imposed upon a basis that is equitable and just; and, with the like approval, a by-law establishing the rate structure may from time to time be amended or replaced.

Sewer rate
structure.

(7) The council of a local municipality may by by-law provide for imposing upon owners or occupants of land who use a sewer, sewer system or sewage works for carrying away sewage or land drainage, or both, from their land, a sewage service rate sufficient to pay such portion or percentage of the annual cost of maintenance and operation of the work so used as the by-law may specify.

Sewage
service rate.

- (a) Cost of maintenance and operation of a work for the purposes of this subsection does not include any part of or payment on the capital cost of the work or any sum for capital improvement thereof or for any depreciation, obsolescence, deferred maintenance or other fund or reserve created with respect to the work.

Idem.

(8) A sewage service rate may be imposed under subsection 7 notwithstanding that,

- (a) a sewer rate has also been imposed with respect to the capital cost of the same work; and
- (b) the work with respect to which it is imposed was constructed under *The Local Improvement Act* or any other general or special Act.

Rev. Stat.,
c. 215.

Sewage
service rate
structure.

(9) The council of a local municipality for the purposes of subsection 7 may by by-law establish a sewage service rate structure upon which sewage service rates imposed under subsection 7 shall be based and calculated and in establishing the rate structure the council shall have regard to differentiating between classes of users, nature, volume and frequency of use and all other relevant matters to ensure that sewage service rates are imposed upon a basis that is equitable and just; and a by-law passed under this subsection may from time to time be amended or replaced.

Collection
of rates.

(10) The council of a local municipality may by by-law establish systems for,

- (a) fixing times, periods and frequencies at and for which sewer rates imposed under subsection 2 or 5 and sewage service rates imposed under subsection 7 shall be payable, and they may be yearly, half-yearly, quarterly or bi-monthly;
- (b) allowing discounts for prompt payment of such rates or for adding penalties for non-payment by due date;
- (c) appointing persons, corporations or agencies to have charge of and the power and responsibility for billing and collecting such rates;
- (d) billing and collecting such rates and for co-ordinating such billing and collecting with the billing and collecting of other kinds of rates or charges imposed by or for the corporation;
- (e) any other relevant matter or thing,

and a by-law passed under this subsection may from time to time be amended or replaced.

(11) A sewer rate imposed under subsection 2 or 5 and a Rates a lien. sewage service rate imposed under subsection 7 upon any owner or occupant of land shall be a lien and charge upon the land and, if the same or any part thereof remains unpaid after due date, the amount unpaid may be collected by distress upon the goods and chattels of such owner or occupant; or the clerk of the municipality, upon notice to him of the amount due, the person by whom it is due and the land upon which a lien is claimed, shall enter the same upon the collector's roll and the collector shall proceed to collect the same in the same way, as nearly as may be, as municipal taxes are collectable. 1949, c. 61, s. 11.

390.—(1) By-laws may be passed by the councils of local municipalities:

Restricted Areas

1. For prohibiting the use of land, for or except for such Restricting use of land. purposes as may be set out in the by-law, within any defined area or areas or abutting on any defined highway or part of a highway. 1941, c. 35, s. 13 (1), *part*.

2. For prohibiting the erection or use of buildings or structures for or except for such purposes as may be set out in the by-law, within any defined area or areas or upon land abutting on any defined highway or part of a highway. 1941, c. 35, s. 13 (1), *part*; 1946, c. 60, s. 50 (1). Restricting erection or use of buildings.

3. For prohibiting the erection of a building or structure for residential or commercial purposes on land where by reason of its low-lying, marshy or unstable character, the cost of construction of satisfactory waterworks, sewage or drainage facilities is prohibitive. 1946, c. 60, s. 50 (2). Marshy lands.

4. For regulating the cost or type of construction and the height, bulk, location, spacing, external design, character and use of buildings or structures to be erected within any defined area or areas or upon land abutting on any defined highway or part of a highway, and the minimum frontage and depth of the parcel of land and the proportion of the area thereof which any building or structure may occupy. 1946, c. 60, s. 50 (3). Construction of buildings and structures.

5. For requiring the owners or occupants of buildings or structures to be erected or used for a purpose named in the by-law, to provide and maintain loading facilities on land that is not part of a highway. 1946, c. 60, s. 50 (4). Loading space.

(2) Any by-law passed under this section may prohibit or regulate all or any of the matters mentioned in subsection 1. 1946, c. 60, s. 50 (5), *part*. Scope of by-law.

Uses for
hazardous
purposes.
Rev. Stat.,
c. 277.

(3) Where an official plan is in effect in a municipality or a part thereof under *The Planning Act*, a by-law passed under this section may include a provision that no land, building or structure shall be used in the area covered by the by-law for such commercial or industrial purposes as are likely to create danger to health or danger from fire or explosion and as are specified in the by-law, without the approval in writing,

(a) of the committee of adjustment constituted under section 15 of *The Planning Act*; or

(b) where no such committee has been established, of the planning board,

and where a by-law includes such provision, the committee or board shall give one copy of its written decision upon any application for approval to the applicant and shall file one copy with the clerk of the municipality, and where the committee or board has refused to grant any such application it shall, upon the request of the applicant, refer the matter to the Municipal Board, which Board may grant or refuse such approval and its decision shall be final and binding. 1950, c. 46, s. 19 (1), *part*.

Use of
maps.

(4) Land within any area or areas or abutting on any highway or part of a highway may be defined by the use of maps to be attached to the by-law, and the information shown on such maps shall form part of the by-law to the same extent as if included therein.

Acquisition
and dis-
position of
non-con-
forming
lands.

(5) The council may acquire any land, building or structure used or erected for a purpose which does not conform with a by-law passed under this section and any vacant land having a frontage or depth less than the minimum prescribed for the erection of a building or structure in the defined area in which such land is situate and the council may dispose of any of such land, building or structure or may exchange any of such land for other land within the municipality. 1946, c. 60, s. 50 (5), *part*.

Excepted
lands and
buildings.

(6) No by-law passed under this section shall apply to any land, building or structure which, on the day of the passing of the by-law, is used or erected for any purpose prohibited by the by-law, so long as it continues to be used for that purpose, nor shall the by-law apply to any building or structure the plans for which have prior to the day of the passing of the by-law been approved by the municipal architect or building inspector, so long as the building or structure when erected is used for the purpose for which it was erected. 1941, c. 35, s. 13 (1), *part*; 1946, c. 60, s. 50 (6).

Restrictions
on boundary
highways.

(7) Where the boundary between two local municipalities is a highway and the council of one only of the municipalities

as to lands abutting on the highway has passed a by-law for any purpose mentioned in subsection 1 and for three months after request by the council of such municipality the council of the other municipality neglects or fails to pass or to take effective proceedings to pass a corresponding by-law, the council of the first-mentioned municipality may apply to the Municipal Board for an order, which the Municipal Board shall have power to make, declaring that after a date to be named in the order the by-law of the first-mentioned municipality shall apply to the lands abutting on both sides of the boundary highway to the same extent in area for the same purpose and as fully and effectually as if all such abutting lands were described in the by-law and were within the first-mentioned municipality, and if and when such order is made and becomes effective the by-law shall be construed and may be enforced accordingly. 1949, c. 61, s. 12, *part*.

(8) No part of any by-law passed under this section shall come into force without the approval of the Municipal Board, and such approval may be for a limited period of time only, and the Board may extend such period from time to time upon application made to it for such purpose. 1943, c. 16, s. 11 (1). Approval by Municipal Board.

(9) No part of any by-law passed under this section and approved by the Municipal Board shall be repealed or amended without the approval of the Municipal Board. Repeal or amendment.

(10) The council shall, in such manner and to such persons as the Municipal Board may direct, give notice of the intention of the council to apply to the Municipal Board for approval of any by-law passed under this section. 1941, c. 35, s. 13 (1), *part*. Notice of application.

(11) Where a by-law passed under this section applies to land abutting on the King's Highway or on a highway under the jurisdiction of a county council, the council which passed the by-law shall give to the Department of Highways or to the clerk of the county council, as the case may be, notice of its intention to apply to the Municipal Board for approval of the by-law. 1949, c. 61, s. 12, *part*. Notice of application when King's Highway or county highway affected.

(12) Every application to the Municipal Board for approval of a by-law passed under this section shall state whether or not the land affected by the by-law is covered by an official plan that is in effect under *The Planning Act*. 1950, c. 46, s. 19 (1), *part*. Application to state whether official plan in effect. Rev. Stat., c. 277.

(13) Where, after an adjournment of the hearing of an application for approval of any by-law passed under this section and prior to the final hearing of the application, the Amendment of by-law pending approval.

by-law is amended, the Municipal Board may direct that notice of the application for approval of the amended by-law be given in such manner and to such persons as the Municipal Board may direct or may dispense with such notice, and may approve the amended by-law.

Extent of approval.

(14) The Municipal Board may approve any such by-law in whole or in part and as to the whole or any part of any land, area or highway therein defined, and the Municipal Board may have regard to the restrictions on any land adjacent to such land, area or highway.

When approval effective.

(15) Such approval shall not become effective until the issue by the Municipal Board of its formal order thereof. 1941, c. 35, s. 13 (1), *part*.

Extension or enlargement.

(16) Notwithstanding any other provision of this section, any by-law passed under this section or any by-law deemed to be consistent with this section by subsection 3 of section 13 of *The Municipal Amendment Act, 1941*, may with the approval of the Municipal Board be amended so as to permit the extension or enlargement of any land, building or structure used for any purpose prohibited by the by-law if such land, building or structure continues to be used in the same manner and for the same purpose as it was used on the day such by-law was passed. 1943, c. 16, s. 11 (2), *part*; 1946, c. 60, s. 50 (7); 1950, c. 46, s. 19 (2).

Appeal.

(17) Where an application to the council for an amendment to a by-law passed under this section, or any by-law deemed to be consistent with this section by subsection 3 of section 13 of *The Municipal Amendment Act, 1941*, is refused or the council refuses or neglects to make a decision thereon within one month after the receipt by the clerk of the application, the applicant may appeal to the Municipal Board and the Municipal Board shall hear the appeal and dismiss the same or direct that the by-law be amended in accordance with its order. 1946, c. 60, s. 50 (8); 1950, c. 46, s. 19 (3).

391. By-laws may be passed by the councils of urban municipalities:

Inspection of bathing and boat houses.

1. For inspecting public bathing houses and boat houses or premises wholly or partly used for boat-house purposes. R.S.O. 1937, c. 266, s. 407, par. 1.

Requiring changes in structure of buildings.

2. For requiring the owner or occupant of any building to make such changes in its structure and to strengthen its walls, supports and floors as may be required by the architect or other officer named in the by-law when, in the opinion of the architect or such officer, the building is being used for any purpose for which it is structurally unsuited or which renders it dan-

gerous, and requiring a permit from the architect or such other officer for such use after such changes have been made as he may direct, and prohibiting the use of any building which in the opinion of the architect or other officer is dangerous, without his sanction and approval.

3. For authorizing and assigning stands on the highways and in public places for motor vehicles not kept for hire, and for motor vehicles and other vehicles kept for hire, and regulating the use of the stands, and for authorizing the erection and maintenance of covered stands or booths on the highways and in public places for the protection or shelter of the drivers of such motor vehicles and other vehicles kept for hire; but no such covered stand or booth shall be placed upon the sidewalk without the consent of the owner and occupant of the adjoining land. R.S.O. 1937, c. 266, s. 407, pars. 6, 7. Stands for vehicles.

4. For acquiring, with the consent of the council thereof, land in any other municipality required for preventing such urban municipality or any part of it from being flooded by surface or other water flowing from such other municipality, or for an outlet for such water; and for constructing, maintaining and improving drains, sewers and watercourses in the land so acquired. Acquiring land in another municipality for drainage purposes.

5. For acquiring land in the municipality for a drill-shed or armoury for any militia or volunteer corps having its headquarters in the municipality. Site for drill-shed or armoury.

6. Subject to *The Factory, Shop and Office Building Act* and any other Act relating to cranes, elevators and hoists, for regulating the construction of and for inspecting cranes, hoists and elevators, and for regulating the manner in which elevators and hoists which are to be operated automatically or otherwise in buildings, shall be constructed and operated, and for licensing elevators and hoists used by the public or by employees. R.S.O. 1937, c. 266, s. 407, pars. 11-13. Erection of elevators. Rev. Stat., c. 126.

7. For providing medals or rewards for persons who distinguish themselves at fires, and for granting gratuities to the members of the fire brigade who have become incapacitated for service on account of injuries or ill-health caused by accident or exposure at fires, or from old age or inability to perform their duties, and for granting pecuniary aid or other assistance to the widows and children of persons killed by accident while in the discharge of their duties at fires, or who die from injuries received or from illness contracted while in the service of the corporation as firemen. R.S.O. 1937, c. 266, s. 407, par. 17. Rewards to firemen and persons distinguishing themselves at fires.

8. For regulating the use of tickets, checks or coupons by vendors of or dealers in milk, bread or other articles of food. R.S.O. 1937, c. 266, s. 407, par. 38. Milk and bread tickets.

Unlocked
motor
vehicles.

9. For prohibiting any person driving or in charge of a motor vehicle, other than a commercial motor vehicle, from allowing such motor vehicle to stand unattended unless it is locked in such a manner as to prevent its operation by any person not authorized by the owner, driver or person in charge.

Rev. Stat.,
c. 167.

(a) In this paragraph, "motor vehicle" and "commercial motor vehicle" mean "motor vehicle" and "commercial motor vehicle" as defined in *The Highway Traffic Act*.

(b) Any person who contravenes the provisions of such a by-law shall be guilty of an offence and liable to a penalty of not less than \$1 and not more than \$10. 1940, c. 18, s. 13.

Numbering
houses, etc.

10. For numbering the buildings and lots along the highways and for affixing numbers to the buildings, and for charging the owner or occupant with the expense incident to the numbering of his building or lot, provided that such expense may be collected in the same manner as taxes, and if paid by the occupant, subject to any agreement between him and the owner, may be deducted from the rent payable to the owner.

Record of
streets,
numbers,
etc.

11. For keeping, and every such council shall keep, a record of the highways and of the numbers of the buildings and lots, and for entering therein, and every such council is hereby required to enter therein, a division of the streets with boundaries and distances for public inspection. R.S.O. 1937, c. 266, s. 407, pars. 40, 41.

Strayed
pigeons.

12. For empowering officers of the municipality, upon the complaint of the owner or occupant of any premises, to enter upon such premises and the land and buildings in the vicinity thereof, for the purpose of trapping, removing or exterminating strayed pigeons which are causing annoyance to the owner or occupant or damages to such premises. 1948, c. 59, s. 14 (3).

Vacant lots.

13. For requiring vacant lots to be properly enclosed. R.S.O. 1937, c. 266, s. 407, par. 50.

Appoint-
ment of night
watchmen.

14. For employing and paying one or more watchmen to patrol at night, or between certain hours of the night, any highway or part of a highway to be defined by the by-law and to guard and protect property, and for levying and collecting in the same manner and at the same time as taxes are levied and collected, by special rate, according to its assessed value, upon the land abutting on such highway or part of a highway within the limits defined by the by-law, except vacant lots, the expenses of or incidental to the employment of such night watchmen.

- (a) The by-law shall not be passed except upon petition of two-thirds of the assessed owners and tenants of the land liable to be charged with the expenses, representing at least two-thirds of the assessed value of such land. Petition by ratepayers.
- (b) A petition shall not be acted on unless the signatures to it, and that the contents of it were made known to each person before signature, are proved by affidavit. Proof of signatures.
- (c) As between the landlord and tenant, in the absence of any express agreement to the contrary, the tenant shall be liable for the expenses for the period of his occupation. Liability of tenant.
- (d) When land is occupied by a tenant the owner shall not be entitled to petition. R.S.O. 1937, c. 266, s. 407, par. 49. When owner not to petition.

15. For regulating the construction, erection, alteration or repairing of water tanks and water towers whether on buildings or elsewhere, and for prohibiting the construction, erection, altering or repairing of same contrary to such regulations. R.S.O. 1937, c. 266, s. 407, par. 51. Water tanks and towers.

16. For requiring the installation and maintenance of safety devices for window cleaners, for inspecting such devices and for prohibiting any person from cleaning the outside of windows of buildings on which such devices are installed unless such devices are used. 1944, c. 39, s. 39. Window cleaners.

392. Subject to section 393, by-laws may be passed by the councils of urban municipalities and of townships bordering on a city having a population of not less than 100,000: Market by-laws.

1. For establishing, maintaining and regulating markets. R.S.O. 1937, c. 266, s. 408, par. 1. Establishing markets.

2. For prohibiting or regulating the sale by retail in the high-ways or on vacant lots adjacent to them of any meat, fish, vegetables, grain, hay, fruit, flowers, beverages, smallwares and other articles, and for regulating traffic in and preventing the blocking up of the highways by vehicles or otherwise. R.S.O. 1937, c. 266, s. 408, par. 2; 1950, c. 46, s. 20. Regulating vending in streets, etc.

3. For regulating the place and manner of selling and weighing grain, meat, vegetables, fish, hay, straw and other fodder, wood, lumber, shingles, farm produce, smallwares and all other articles exposed for sale, and prescribing the fees to be paid therefor. Sale of grain, meat, farm produce, smallwares, etc.

4. For prohibiting criers and vendors of smallwares from practising their calling in the market place, or on the highways, or on vacant lots adjacent to the market place or to a highway. Criers and vendors of smallwares.

Prohibiting
forestalling,
etc.

5. For prohibiting the forestalling, regrating or monopoly, of grain, wood, meat, fish, fruit, roots, vegetables, poultry, dairy products, eggs and all articles for family use, which are usually sold in the market, and for prohibiting or regulating the purchase of such things by hucksters, grocers, butchers, runners or wholesalers, or by persons who directly or indirectly purchase or acquire them for re-sale, provided that farmers and other producers may nevertheless sell such things at stores and shops at any time. R.S.O. 1937, c. 266, s. 408, pars. 3-5.

Hucksters,
etc.

Measuring,
etc., cer-
tain articles.

6. For regulating the measuring or weighing of lime, shingles, laths, cordwood, coal and other fuel.

Weighing of
fuel for
delivery
beyond
municipal
limits.

(a) A by-law passed by a municipality under this paragraph may be made applicable to the weighing of coal and other fuel to be delivered within the municipality or to a point not more than three miles beyond its limits.

Ticket
showing
weight
required.

(b) A by-law passed under this paragraph may require coal and other fuel dealers to make out a ticket showing the weight or quantity of the coal or other fuel purchased after the same is weighed or measured in accordance with the by-law, and the by-law may require that the amount so specified and the ticket shall be delivered to the purchaser. 1946, c. 60, s. 52; 1948, c. 59, s. 15.

Regulating
vehicles
used in mar-
ket vending.

7. For regulating vehicles, vessels and other things in which anything is exposed for sale or marketed and for imposing a reasonable duty thereon, and establishing the mode in which it shall be paid.

Sale of meat
distrained.

8. For selling, after six hours notice, butchers' meat distrained for rent of a market stall.

Purchasing
weighing
machines,
etc.

9. For purchasing, leasing, erecting, maintaining and operating weighing machines and weigh-houses, for appointing weigh-masters and for prescribing their duties. R.S.O. 1937, c. 266, s. 408, pars. 7-9.

Fees.

10. For imposing, levying and collecting fees for the use of such weighing machines. R.S.O. 1937, c. 266, s. 408, par. 10; 1947, c. 69, s. 34 (1).

Weighing
of coal and
coke.

11. With the approval of the Municipal Board and within the limitations and restrictions, and under the conditions prescribed by order of the Board, for requiring all persons who, after a sale thereof, deliver coal or coke within the municipality, by a vehicle, from any coal yard, store-house, coal-chute, gas house or other place, to have the weight of such vehicle and of such coal or coke ascertained prior to delivery, by a weighing machine established as provided by paragraph 9, to furnish

the weigh-master in charge of such weighing machine with, and to surrender to each purchaser, at the time of delivery, a weigh-ticket upon which has been printed or written a description and grade of the coal or coke, the name and address of the vendor, and the name of the purchaser, and to have such weigh-ticket dated and signed by such weigh-master and to have him enter thereon the weight of such coal or coke.

- (a) Every vendor of coal or coke with respect to which a weigh-ticket has been issued shall be bound thereby, and shall not be entitled to demand, collect or recover from the purchaser the price of any greater quantity of coal or coke than that shown on such weigh-ticket. Vendor bound.
- (b) Every such vendor, who demands, collects or receives from a purchaser the price of any greater quantity of coal or coke than that shown on such weigh-ticket shall be guilty of an offence and be liable to a penalty of not more than \$20. Penalty.
- (c) Nothing in this paragraph shall authorize a municipality to require the weighing of coal or coke sold in car lots at shippers' weights. R.S.O. 1937, c. 266, s. 408, par. 11 (a-c). Car lots.

12. For requiring all persons offering or exposing cordwood or firewood for sale upon the market, loaded in or upon any vehicle, Measurement of wood sold on market.

- i. to have such wood measured by a market inspector or by some other official of the municipality appointed for that purpose, who shall mark the measurement in a conspicuous place upon the load or vehicle, before the wood is offered for sale;
- ii. to procure from such inspector or official a measurement ticket signed and dated by him, upon which he has entered the quantity of cordwood or firewood loaded in or upon the vehicle, and the name and address of the vendor;
- iii. to surrender the measurement ticket to the purchaser at or before the time of delivery;
- iv. to pay such fee for measuring as may be imposed. R.S.O. 1937, c. 266, s. 408, par. 12; 1947, c. 69, s. 34 (3).

13. For requiring all persons who, after a sale thereof except upon the market, deliver cordwood or firewood within the municipality by a vehicle, to surrender to the purchaser thereof when making delivery a ticket signed by or on behalf of such person, upon which shall be legibly written or printed Measurement of wood sold off market.

his name and address, the quantity of wood delivered from such vehicle, expressed in terms of a cord of 128 cubic feet, and the price at which the same has been sold.

Kindling,
etc.

(a) No by-law shall require kindling wood, mill waste or mill cuttings to be measured.

Storage of
coke.

14. For requiring retail vendors of coke selling by weight to store their stock of coke so that it will not be exposed to rain, snow or water, and for prohibiting the sale of coke which is not so stored. R.S.O. 1937, c. 266, s. 408, pars. 13, 14.

No market
fees to be
imposed
on certain
products.

393.—(1) No market fee shall be imposed, levied or collected in respect of wheat, barley, rye, corn, oats, or any other grain, hay or other seed, wool, lumber, lath, shingles, cordwood or other firewood, dressed hogs, cheese, hay, straw or other fodder, brought to market, or upon the market place, for sale or other disposal.

When fees
may be
charged on
butter, etc.,
brought to
market.

(2) No market fee shall be imposed, levied or collected in respect of butter, eggs, poultry, honey, celery, small fruits or other articles in hand baskets, brought to market, or upon the market place, for sale or other disposal, unless a convenient and fit place affording shelter in summer and shelter and reasonable protection from the cold in winter, in which to expose them for sale, is provided by the corporation.

Fees not to
be charged
on articles
delivered in
pursuance
of prior
contract.

(3) Where the vendor of an article brought within the municipality in pursuance of a prior contract for the sale of it proceeds directly to the place of delivery, without hawking it upon the highways or elsewhere in the municipality, no market fee shall be imposed, levied or collected in respect of it.

Nor on
articles
brought into
municipality
after 10 a.m.

(4) No market fee shall be imposed, levied or collected in respect of any article brought into the municipality after ten o'clock in the forenoon, unless it is offered or exposed for sale upon the market place.

When
articles
need not be
weighed or
measured.

(5) No by-law shall require hay, straw or other fodder to be weighed, where neither the vendor nor the purchaser desires to have it weighed or measured.

Time after
which at-
tendance on
market not
required.

(6) A person who has exposed or offered for sale an article in the market place and has paid the prescribed fee, if any, in respect of it may, after nine o'clock in the forenoon, between the 1st day of April and the 1st day of November, and after ten o'clock in the forenoon, between the 1st day of November and the 1st day of April, sell such article elsewhere than in the market place. R.S.O. 1937, c. 266, s. 409 (1-6).

Subsection 1
not to apply
where by-
law in force
allowing sale
without fee
except at
the market;

(7) Subsection 1 shall not apply to a municipality in which there is in force a by-law providing that vendors of articles in

respect of which under the provisions of paragraph 3 of section 392, a market fee may be imposed, may, without paying market fees, offer for sale and sell or otherwise dispose of such articles, at any place within the municipality, excepting only at the market place.

(8) Subject to subsection 2, the council of a municipality to which subsection 7 applies, may by by-law provide for imposing, levying and collecting market fees from such vendors who voluntarily use the market place for selling such articles or from any person who or whose vehicle remains upon that part of a highway which is within 100 yards of the market place, for the purpose of selling any of such articles other than grain, seeds, dressed hogs or wool upon such highway, but driving through or across such part of a highway shall not authorize the imposition of any market fee, nor shall any market fees be imposed in respect of an article sold to a person carrying on business and having a *bona fide* store, shop or other similar place of business on such part of a highway.

but such by-law may impose fees on persons voluntarily using market; and on others selling within 100 yards of market. Exception as to sales to persons carrying on business near market.

(9) Where a highway is used as a market place or market, or part of a market place or market, no market fees shall be imposed, levied or collected upon articles brought to that part of the highway which is so used, but this subsection shall not apply to so much of a highway as adjoins or abuts upon a market square established as a market place.

Fees not to be charged where highway used as market.

(10) Subsections 7 to 9 shall not apply to any municipality where no market fees were charged or imposed on the 10th day of March, 1882, but subsections 1 to 6 and 11 and 12 shall apply to such municipality in the event of market fees being thereafter charged or imposed therein.

Case of municipality again imposing market fees.

(11) Nothing in subsections 1 to 10 shall prevent any municipality wherein no market fees are imposed or charged from regulating the sale and the place of sale of any articles within the municipality to the same extent as it might have done before the 10th day of March, 1882.

Power to regulate sales when no fees are charged.

- (a) "Market fees", within the meaning of this subsection, does not include fees for weighing or measuring.
- (b) After nine o'clock in the forenoon, between the 1st day of April and the 1st day of November, and after ten o'clock in the forenoon between the 1st day of November and the 1st day of April, no person shall be compelled to remain on or resort to any market place with any articles which he may have for sale, but may, after the expiration of such hour, sell or dispose of such articles elsewhere than in or on said market places.

Inconsistent
enactments
not to apply.

(12) Whenever subsections 1 to 6 or subsections 7 to 9 are in force in any municipality, so much of any Act or law as may be contrary to, and as conflicts with the same, shall not be in force in or apply to such municipality.

Right to
sell or lease
market fees.

(13) A corporation may sell or lease its market fees with the right to collect them. R.S.O. 1937, c. 266, s. 409 (9-15).

394. By-laws may be passed by the councils of counties, cities and towns:

Grants to
universities,
colleges,
historical
societies,
etc.

1. For making grants in aid of the University of Toronto or of Upper Canada College, or of any other university or college in Ontario, or of any historical, literary or scientific society.

(a) Such grants may be made from time to time, and may be either by one payment, or by an annual payment for a limited number of years, and upon such terms and conditions as may be agreed upon and may include supplying Upper Canada College with water from the waterworks of the City of Toronto without charge. R.S.O. 1937, c. 266, s. 410, par. 1.

Endowing
fellowships,
etc., in
universities
and colleges.

2. For endowing fellowships, scholarships or exhibitions, and other similar prizes, in the University of Toronto, or in Upper Canada College, or in any other university or college in Ontario, for competition among the pupils of the collegiate institutes, high schools and continuation schools in the municipality. R.S.O. 1937, c. 266, s. 410, par. 2; 1949, c. 61, s. 15 (1).

Aid to art
schools.

3. For granting aid to art schools approved by the Department of Education. R.S.O. 1937, c. 266, s. 410, par. 3.

Aid to
private
training
schools.
Rev. Stat.,
c. 396.

4. For granting aid to a society as defined in *The Training Schools Act* for the erection, establishment or equipment of a private training school, where the council is represented on the board of the society. R.S.O. 1937, c. 266, s. 410, par. 4, *amended*.

Supporting
certain
pupils at
universities,
colleges, etc.

5. For making permanent provision for defraying the expenses of the attendance at the University of Toronto or at Upper Canada College, or at any other university or college in Ontario, of such of the pupils of any collegiate institute, high school or continuation school of the municipality as are unable to incur the expense, but are desirous of, and in the opinion of the head master thereof possess competent attainments for competing for any scholarship, exhibition or other similar prize offered by such university or college. R.S.O. 1937, c. 266, s. 410, par. 5; 1949, c. 61, s. 15 (2).

6. For making similar provision for the attendance at any collegiate institute, high school or continuation school, for the like purpose, of pupils of public schools of the municipality. R.S.O. 1937, c. 266, s. 410, par. 6; 1949, c. 61, s. 15 (3). Similar provisions for attendance at high schools.

395. By-laws may be passed by the councils of towns, villages and townships:

1. For making grants in aid of, or to build, preserve, enlarge or improve any collegiate institute or high school in another municipality. R.S.O. 1937, c. 266, s. 411. Grants to high schools.

396. By-laws may be passed by the councils of cities and towns:

1. For licensing, regulating and governing laundrymen and laundry companies and for inspecting and regulating laundries. Licensing, etc., of laundries.

(a) The by-law shall not apply to or include women carrying on a laundry business in private dwelling houses, and employing female labour only, or to such dwelling houses.

(b) The by-law may provide that a licence shall not be granted if it is deemed that the location of the laundry is an undesirable one. R.S.O. 1937, c. 266, s. 414, par. 3.

2. For granting aid to any organization owning, manning and working lifeboats or other apparatus for life saving purposes. Aid to life-boat associations.

3. For licensing, regulating and governing massagists and for inspecting and regulating massage parlours, and such by-laws may provide for the enforcement thereof through the medical health department or police department of the city or town. Licensing and regulating massagists, etc.

4. For purchasing and installing apparatus, appliances and equipment for a police signal system at a cost not exceeding \$20,000 in the case of a city and \$10,000 in the case of a town, and for the issue of debentures therefor, payable in equal annual instalments of principal and interest during a period not exceeding 10 years. Police signal system.

(a) It shall not be necessary to obtain the assent of the electors to the by-law if it is passed by a vote of two-thirds of all the members of the council. R.S.O. 1937, c. 266, s. 414, pars. 6-8.

5. Where the sewerage system includes the disposal or purification of sewage by filtration or other artificial means, Commissioners to manage sewerage system.

for placing the management of it under a commission established under *The Public Utilities Act*.
 Rev. Stat., c. 320.

- (a) The by-law shall not be passed without the assent of the municipal electors. R.S.O. 1937, c. 266, s. 414, par. 10; 1943, c. 16, s. 12 (2).

Super-annuation and benefit funds for fire and police force.

6. For granting aid for the establishment and maintenance of superannuation and benefit funds for the members of the police force and of the fire brigade, and of other officers and employees of the corporation, and of their wives and families. R.S.O. 1937, c. 266, s. 414, par. 11.

- (a) This paragraph shall not apply to superannuation and benefit funds established after the 1st day of May, 1939. 1939, c. 30, s. 29.

397. By-laws may be passed by the councils of cities:

Commissioner of industries.

1. For the establishment and maintenance of a department of industries and for appointing a commissioner of industries to bring to the notice of manufacturers and others the advantages of the city as a location for industrial enterprises, summer resorts, residential, educational and other purposes. R.S.O. 1937, c. 266, s. 420, par. 1.

Public bath premises.

2. For licensing, regulating and governing owners or keepers of any class or classes of public bath premises operated for profit, and for revoking any such licence. 1948, c. 59, s. 16 (2).

Refacing encroachments on highways.

3. For permitting existing buildings to encroach or further encroach upon a highway to such extent, not exceeding two inches, as may be necessary to provide for refacing any such building. 1940, c. 18, s. 14; 1943, c. 16, s. 13.

398. By-laws may be passed by the councils of cities having a population of not less than 300,000:

Power to make payments on behalf of indigents for dwelling repairs.

1. For providing and paying on behalf of any indigent inhabitant the cost, not exceeding \$200, of repairs necessary to make a dwelling habitable. 1944, c. 39, s. 41.

399.—(1) By-laws may be passed by the councils of cities having a population of not less than 100,000:

Regulating smoke-producing equipment.

1. For regulating the erection, construction, reconstruction, installation, alteration, repair, maintenance, operation and use of furnaces, incinerators, refuse-burning equipment, outside open fires, boilers, chimneys, flues, smoke stacks and other apparatus, devices, mechanisms or structures used in or in connection with the process of burning fuel or other combustible material; and for requiring that plans and

specifications therefor shall be filed with and approved by a designated official of the municipality and that without such approval no such erection, construction, reconstruction, installation, alteration or repair shall be commenced; and for requiring that the work so approved shall be commenced and proceeded with within one year from the date of such approval, and that otherwise such approval shall be void; and for inspecting the work when completed and for issuing a certificate that the work complies with the plans and specifications filed and with the by-law; and for providing that without such certificate no such apparatus, device, mechanism or structure shall be operated or used; and for charging fees for such approval of plans and specifications and for such certificates.

- (a) A by-law passed pursuant to this paragraph shall not require the submission of plans and specifications, the issue of permits or certificates or the charging of fees in the case of routine maintenance work or minor alterations or repairs which do not change the capacity of the fuel-burning equipment or the method of combustion or do not adversely affect the production, emission or discharge of smoke, dust, fly-ash, soot, fumes or other solid or gaseous product of combustion.

2. For prohibiting, except to such extent as the by-law may provide, or regulating the emission or discharge to the atmosphere of smoke, dust, fly-ash, soot, fumes or other solid or gaseous product of combustion from the apparatus, devices, mechanisms or structures referred to in paragraph 1, and for defining the words "smoke", "dust", "fly-ash", "soot" and "fumes". ^{Emission of smoke.}

3. For appointing officers to administer and enforce any by-law passed under this section; and for authorizing such officers to enter at all reasonable times upon any property in order to ascertain whether or not the by-law is being complied with, and to require the owner, occupant, manager or agent thereof to make such tests of or alterations in the apparatus, devices, mechanisms or structures referred to in paragraph 1, or in the manner of operating the same as may, in the opinion of the officer, be necessary to prevent or lessen the emission or discharge to the atmosphere of the products of combustion referred to in paragraph 2. ^{Tests and alterations of equipment.}

4. For authorizing the officer of the municipality charged with the enforcement of any by-law or resolution passed pursuant to this section, to permit deviations or exemptions from the requirements of the by-law or resolution. ^{Minor deviations}

5. For requiring persons engaged in selling or leasing for installation in the municipality any apparatus, devices, ^{Reports of sales of equipment.}

mechanisms or structures referred to in paragraph 1 to report within 10 days after every such sale or lease particulars thereof to an officer designated in the by-law.

Smoke
board.

6. For establishing a board composed of not more than seven members, a majority of whom shall not be members of the council, to hear and determine appeals from the decisions and orders of the officers referred to in paragraph 3; and for prescribing the qualifications, manner of appointment and term of office of members of the board, the number constituting a quorum and the procedure on appeals.

(a) Any person may appeal from a decision of the board established under this paragraph to the Municipal Board whose decision shall be final.

Smoke
nuisances
from sub-
sequently-
built
structures.

7. For providing that, where any prior existing chimney or stack is so located that the emissions or discharges therefrom are a nuisance to the occupants of any building or structure subsequently erected or where any building or structure subsequently erected adversely affects the draft of any such chimney or stack, such nuisance shall be abated or the adverse effect upon such draft shall be corrected, as the case may be, either by increasing the height of the chimney or stack, or by making such other provision as may be deemed effective by a designated officer of the municipality; and for providing that the work shall be done by the owner of the building or structure of which the chimney or stack forms part and that the cost and expenses incurred thereby may be recovered by him from the owner of the building or structure subsequently erected, in any court of competent jurisdiction, as a debt due and payable.

Delegation
of power
to board.

8. For delegating to the board established under paragraph 6 such of the powers of regulation contained in paragraph 1 as the by-law may provide, which delegated powers shall be exercised by the board by resolution; and for providing that any resolution made by the board may be altered or revoked by such board.

Penalties.

9. For imposing penalties not exceeding (exclusive of costs) \$50 for the first offence, \$100 for the second offence and \$200 for the third and each subsequent offence, upon every person who contravenes any by-law passed under this section, any decision or order of an officer referred to in paragraph 3, or any decision or resolution of the board established pursuant to paragraph 6.

Proof of
decision or
resolution.

(2) A copy of a decision or resolution of the board established under paragraph 6 of subsection 1 purporting to be certified by the chairman of the board as a true copy shall be received in evidence in all courts without proof of signature.

(3) Where any by-law, decision, order or resolution referred to in this section is contravened, in addition to any penalty imposed, such contravention may be restrained by action at the instance of the municipality. ^{Restraint by action.}

(4) Subject to subsections 5 to 9, no by-law passed under this section shall apply to any apparatus, device, mechanism or structures referred to in paragraph 1 of subsection 1 on premises which, on the 1st day of April, 1949, were used for the reduction, refining or smelting of ores or minerals or the manufacturing of cement, brick or tiles or as dwelling houses, except apartment houses, so long as the premises continue to be used for such purposes. ^{Exceptions.}

(5) The council may serve by prepaid registered mail upon any person exempt by subsection 4 from the provisions of a by-law passed under this section a notice of intention to make such person subject to the provisions of such a by-law upon such terms and conditions as are set out in the notice. ^{Notice.}

(6) Unless within 30 days of the mailing of such notice the person affected by the notice files with the clerk of the municipality a statement of objections, such person shall be subject to any such by-law to the extent set out in the notice. ^{Time limit for objections.}

(7) Upon service of a statement of objections upon the clerk of the municipality within the said 30 days, the council shall itself or by committee or by the board referred to in paragraph 6 of subsection 1 hold a hearing and shall serve a copy of the decision reached upon the person affected and unless that person appeals in accordance with subsection 8, he shall be subject to the by-law to the extent set out in such decision. ^{Hearing.}

(8) Within 30 days of the service of a decision under subsection 7, the person affected may serve notice of appeal to the Municipal Board on the clerk of the municipality and the secretary of the Board, and the Board shall hear the appeal and may dismiss the appeal or make an order that the person affected shall not be subject to the by-law or shall be subject to the by-law to the extent set out in the order. ^{Appeal.}

(9) The hearing of the appeal shall be a hearing *de novo*, and the order of the Board shall be final and binding upon the person affected and the municipality. 1949, c. 61, s. 16. ^{Order of Board final.}

400. By-laws may be passed by the councils of cities having a population of not less than 50,000:

1. For authorizing the city architect or other officer appointed for that purpose to permit in special cases, which in his ^{Deviation from by-law regulating erection of buildings.}

judgment warrant it, such deviation from the by-laws regulating the erection of buildings as he may deem proper.

Membership
in National
Waterways
Association.

2. For the corporation becoming a member of the National Waterways Association of Canada and paying the fees for such membership and for making contributions towards the expenses of such association and paying the expenses of delegates to any meeting of it or upon its business.

Setting
apart streets
for fast
driving.

3. For setting apart one or more highways or parts of highways on which horses may be ridden or driven more rapidly than is permitted upon other highways, and for regulating the use for such purpose of any such highway.

(a) If a majority of the property owners on any such street petition against such by-law, it shall be repealed.

Seizure of
cattle, etc.,
unfit for
food.

4. For authorizing the seizing, in order to prevent their use as food, of unslaughtered cattle, sheep, calves and hogs which have died within the municipality, and for disposing of the carcasses so as not to endanger the public health, and so as to secure to the owner such value as remains over and above the expenses incurred in disposing of them. R.S.O. 1937, c. 266, s. 422.

401. By-laws may be passed by the councils of cities and of local municipalities, other than cities, situate within 10 miles of a city having a population of not less than 100,000:

R.S.O. 1937, c. 266, s. 415, *part.*

Licensing,
etc., bailiffs,
and bailiffs'
assistants.

1. For licensing, regulating and governing bailiffs and bailiffs' assistants and for providing that any applicant for a bailiff's licence shall deposit with the issuer of licences, with his application, such security or guarantee bond for such amount as may be required by the council of the municipality and for revoking the licence, provided each such revocation is authorized by a resolution or by-law passed specifically for the purpose.

Interpre-
tation.

(a) For the purpose of this paragraph, "bailiff" includes any person acting, or holding himself out as being prepared to act, for or on behalf of any person in the seizure and sale or seizure only of chattels, or in any eviction or the collection of rent or taxes by distress or the repossession of goods or chattels under a conditional sale or lien contract, hire purchase agreement, chattel mortgage or other form of security, and "bailiff's assistant" includes any person acting for or on behalf of a bailiff in the course of any eviction, distress or repossession of goods or chattels as aforesaid, but neither "bailiff" nor "bailiff's assistant" includes a bailiff of any division court nor

any sheriff or his agent, nor any officer of any court of record. 1939, c. 30, s. 30.

- (b) The licence fee shall not exceed \$100 in the case of a Licence fees. city, and \$25 in the case of a local municipality other than a city. R.S.O. 1937, c. 266, s. 415, par. 1, cl. b.

2. For licensing, regulating and governing the keepers of Licensing, regulating and governing pet shops shops or places where animals or birds for use as pets are sold or kept for sale. 1938, c. 22, s. 9 (2).

402. By-laws may be passed by the councils of counties:

1. For granting aid to any society, organization or body in Aid to agricultural and other bodies. the county having for its objects the promotion or protection of agriculture, education or social welfare, where no specific authority for granting such aid is contained in any statute; provided the amount of aid which may be granted under the authority of this paragraph shall not exceed in the aggregate \$5,000 in any year. R.S.O. 1937, c. 266, s. 417, par. 9.

2. For protecting and regulating booms on any stream or Protecting booms. river for the safe keeping of timber, saw-logs and staves. R.S.O. 1937, c. 266, s. 417, par. 1.

3. For acquiring lands in the county and erecting thereon Establishment of county farms. farm and other buildings and for establishing, developing, improving, equipping, operating and maintaining such lands and buildings as a county farm for educational, experimental and other purposes in the promotion and advancement of agriculture in all its branches, and for the issue of debentures therefor, other than for the expenses of operation and maintenance.

- (a) It shall not be necessary to obtain the assent of the electors to any by-law passed under this paragraph if it is passed by a vote of two-thirds of all the members of the council.

- (b) A county council which has established a county farm under this paragraph may enter into agreements with the Minister of Agriculture for its development, improvement and equipment and for its operation and maintenance by or in conjunction with the Department of Agriculture for such periods and upon such terms and conditions as from time to time may be agreed. R.S.O. 1937, c. 266, s. 417, par. 8.

4. For the exercise in respect of fences along highways Fences. under the jurisdiction of the council, of the powers conferred upon the councils of local municipalities by paragraph 27 of subsection 1 of section 388. R.S.O. 1937, c. 266, s. 417, par. 2; 1949, c. 61, s. 17.

Regulating
erection of
poles,
towers,
wires, etc.,
on county
roads.
Rev. Stat.,
c. 249.

5. Subject to *The Municipal Franchises Act*, for permitting and regulating the erection and maintenance of electric light, power, telegraph and telephone poles, towers and wires on, and the laying of pipes or conduits for the conveyance of water, gas or sewage under the highways under the jurisdiction of the council.

Annual
expenditure
for publicity.

6. For expending and for diffusing information respecting the advantages of the county as an agricultural centre, a sum not exceeding in any year \$3,000. R.S.O. 1937, c. 266, s. 417, pars. 3, 4.

Sleigh
runners.

7. For providing that no sleigh or other vehicle upon runners for the conveyance of articles of burden, goods, wares or merchandise shall be used by any person residing within the municipality on any of the highways within the municipality unless the runners thereof, measuring from centre to centre, are apart at the bottom at least four feet.

(a) The by-law may exempt from its operation all sleighs or vehicles on runners owned at the time of its passing by persons resident within the municipality, and shall not come into force until the expiration of one year from the date upon which it was passed. R.S.O. 1937, c. 266, s. 418.

Refuse from
grass or
clover seed.

8. For compelling the destruction or regulating the disposal of the refuse obtained in the process of cleaning grass or clover seed.

Purchase
and dona-
tion of
seeds.

9. For purchasing supplies of any or all kinds of vegetables, seeds and seed roots and tubers and donating them to residents of the county on such terms and conditions as may be fixed by the by-law for the purpose of promoting and aiding the production of crops. R.S.O. 1937, c. 266, s. 417, pars. 6, 7.

Regulation
of traffic on
certain
county
roads.

10. If there are gravel or macadamized highways under the jurisdiction of the council and under its immediate control, which are being kept up and repaired by municipal taxation, and upon which no toll is collected,

Licensing
livery
stables.

(a) for licensing, regulating and governing the keepers of livery stables, and of horses, cabs, carriages, omnibuses and other vehicles used or kept for hire, and teamsters;

Rates of
fare.

(b) for regulating the fares to be charged for the conveyance of goods or passengers;

Regulating
traffic.
Rev. Stat.,
c. 167.

(c) subject to *The Highway Traffic Act* for regulating the traffic on such highways. R.S.O. 1937, c. 266, s. 417, par. 5.

403. By-laws may be passed by the councils of townships in unorganized territory:

1. For providing that no sleigh or other vehicle upon runners for the conveyance of articles of burden, goods, wares or merchandise, shall be used by any person on any of the highways within the municipality unless the runners thereof, measuring from centre to centre, are apart at the bottom at least four feet. R.S.O. 1937, c. 266, s. 419. Sleigh-runners.

404. The council of a township in unorganized territory having a population of not less than 5,000 and which has been declared by order of the Municipal Board to be a township part of which is so built up and populated as to entitle it to be incorporated as a town under this Act may pass by-laws for the purposes mentioned in, Power of certain townships in unorganized territory to pass by-laws for certain purposes.

- (a) paragraph 3 of section 391;
- (b) sections 392 and 393;
- (c) paragraph 1 of section 407;
- (d) paragraph 1 of section 411;
- (e) paragraphs 1 and 2 of section 412. R.S.O. 1937, c. 266, s. 426; 1948, c. 59, s. 19; 1949, c. 61, s. 19.

405. By-laws may be passed by the councils of townships:

R.S.O. 1937, c. 266, s. 425, *part*.

1. For exercising the powers conferred by paragraph 31 of subsection 1 of section 388 in respect of any defined area in the township, and for levying a special rate on all the rateable property in the defined area according to the last revised assessment roll sufficient to pay the cost incurred or to meet the annual payments of principal and interest upon any debentures issued in respect of such cost. 1949, c. 61, s. 18 (1). Fire areas in townships.

2. For appointing, insuring and paying firemen and others employed in connection with the fire hall and for levying a special annual rate on all the rateable property in such area according to the last revised assessment roll to meet the cost thereof and the cost of the maintenance and repair of the fire hall, fire engines, apparatus and appliances; provided that where two-thirds of the owners of lands in the area, according to the last revised assessment roll, petition therefor, the council may by by-law levy the special annual rate for the purposes mentioned in this paragraph upon that part of the rateable property in the area which consists of the assessments for buildings only as shown on the said assessment roll. R.S.O. 1937, c. 266, s. 425, par. 3. Appointing, insuring and paying of firemen.

3. For entering into agreement with any other municipality or person upon such terms and conditions and for such consi- Area fire-protection agreements.

deration based on cost as may be agreed upon or failing agreement as may be determined by the Municipal Board for the use of the fire-fighting equipment of such municipality or person, or any of it, in the event of fire in any defined area of the township, and for levying a special annual rate on all the rateable property in such area to defray the expenses incurred under and incidental to the agreement, provided that notwithstanding the provisions of any such agreement no liability shall accrue to the municipality or person for failing to supply the use of the fire-fighting equipment, or any of it. 1947, c. 69, s. 39 (2).

Establishment of joint fire brigade by municipalities.

4. For entering into a contract with the corporation of any other municipality or municipalities for establishing, providing and maintaining, jointly, a fire brigade, fire halls, fire engines, apparatus and equipment and for the maintenance and use thereof upon such basis as to the distribution of cost as the contract may stipulate.

(a) Each municipality shall issue its own debentures for its share of the capital cost of providing the said fire services, and the provisions of paragraphs 1 to 3 shall be applicable.

Authority to call out help.

5. For authorizing the reeve, or deputy reeve, or, in case of the absence of the reeve and deputy reeve, any member of the council, in the event of an emergency arising in the township by reason of timber or forest fires, to call out such number of resident male inhabitants of the township as may be necessary to fight and put out any such fires, and for fixing the amount of the remuneration to be paid to such residents for the services rendered by them. R.S.O. 1937, c. 266, s. 425, pars. 5, 6.

Numbering buildings and lots in parts of township.

6. For numbering the buildings and lots along any highway, street, beach, park, reserve or any other property in the township which it is considered necessary to number by the township council, and for affixing numbers to the buildings, and for charging the owner or occupant with the expense incident to the numbering of his building, lot or property.

(a) Such expense may be collected in the same manner as taxes, and if paid by the occupant, subject to any agreement between him and the owner, may be deducted from the rent payable to the owner.

Records of streets and numbers, etc.

7. For keeping, and every such council shall keep, a record of the highways, streets, beaches, parks, reserves and of the numbers of the buildings and lots, and for entering therein, and every such council is hereby required to enter therein, a division of the streets with boundaries and distances for public inspection. R.S.O. 1937, c. 266, s. 425, pars. 15, 16.

8. For prescribing the distance from a highway within which unenclosed portable steam engines may not be used for running a sawmill or a shingle mill. Restrictions on operation of portable steam engines.

9. For providing for keeping open the highways during the season of sleighing in each year, and for the application of so much of the commutation of the statute labour fund, as may be necessary for that purpose. Keeping highways open in winter.

10. For requiring the overseers of highways or the pathmasters to make and keep open the highways during the season of sleighing. Requiring overseers of highways to keep open highways.

(a) Such overseers and pathmasters may require the persons liable to perform statute labour to assist in keeping open such highways, and shall give to any person so employed a certificate of his having performed statute labour and of the number of days work done, for which he shall be allowed on his next season's statute labour. Powers of overseers.

11. For prohibiting the obstruction of streams, creeks and watercourses by trees, brushwood, timber or other materials, and for requiring the clearing away and removing of the obstructions by the person causing the same. R.S.O. 1937, c. 266, s. 425, pars. 8-11. Prohibiting obstruction of streams, etc.

12. For prohibiting or regulating the sale by retail in the highways or on vacant lots adjacent to them of any meat, vegetables, grain, hay, fruit, beverages, smallwares and other articles, and for regulating traffic in and preventing the blocking up of the highways by vehicles or otherwise. R.S.O. 1937, c. 266, s. 423, par. 14. Regulating vending in streets.

13. For erecting and maintaining weighing machines within the municipality or within an adjacent village, and charging fees for the use thereof. R.S.O. 1937, c. 266, s. 425, par. 12; 1948, c. 59, s. 18. Erecting and maintaining weighing machines.

14. For purchasing any wet land in the township, the price of which, in case of Crown lands, shall be fixed by the Lieutenant-Governor in Council, and for draining such land. R.S.O. 1937, c. 266, s. 425, par. 13. Purchase of wet lands from Government.

406. By-laws may be passed by the councils of towns, villages and townships and by boards of commissioners of police of cities:

1. For licensing, regulating and governing teamsters, carters, draymen, owners and drivers of cabs, buses, motor or other vehicles used for hire; for establishing the rates or fares to be charged by the owners or drivers of such vehicles for the conveyance of goods or passengers either wholly within the Teamsters, cab owners, cab drivers, vehicles for hire, etc.

municipality or to any point not more than three miles beyond its limits, and for providing for the collection of such rates or fares; and for revoking any such licence.

Livery
stables.

2. For licensing, regulating and governing keepers of livery stables and of horses used for hire. 1947, c. 69, s. 41.

Boat livery
keepers.

3. For licensing, regulating and governing persons keeping boats for hire, and for regulating and inspecting boats kept by such person, and for revoking any such licence. 1948, c. 59, s. 20.

407. By-laws may be passed by the councils of counties and towns and of townships bordering on a city and by boards of commissioners of police of cities:

Licensing
and regulat-
ing salvage
shops, etc.

1. For licensing, regulating and governing salvage shops, salvage yards, second-hand goods shops and dealers in second-hand goods, and for revoking any such licence.

- (a) "Dealers in second-hand goods" includes persons who go from house to house or along highways for the purpose of collecting, purchasing or obtaining second-hand goods.
- (b) The by-law may apply to and require every person using a vehicle for any of the purposes mentioned in this paragraph, either on his account or as the agent or servant of another person, to take out a licence.
- (c) The power of licensing shall not apply to persons engaged in any of the objects mentioned in this paragraph for patriotic or charitable purposes.
- (d) For the purpose of this Act, "salvage yard" includes an automobile wrecking yard or premises, and "second-hand goods" includes waste paper, rags, bones, bottles, bicycles, automobile tires, old metal and other scrap material and salvage.
- (e) The fee to be paid for the licence shall not exceed \$20 for one year.
- (f) A by-law of a county passed under this paragraph shall not have force in any municipality in the said county after such municipality hereby authorized so to do has passed a by-law for a similar purpose.
- (g) Any licence issued under this paragraph may be issued to authorize the licensee to deal in one class only of second-hand goods or in more than one class as may be specified in the licence and such licensee shall not be entitled to deal in any class of second-hand goods not covered by his licence. R.S.O. 1937, c. 266, s. 430; 1938, c. 22, s. 11; 1944, c. 39, s. 43; 1949, c. 61, s. 20.

408. By-laws may be passed by the councils of counties, separated towns and towns in unorganized territory:

1. For authorizing, on petition of at least 50 electors, the holding, at one or more of the most public and convenient places in the municipality, of public fairs restricted to the sale, barter and exchange of cattle, horses, sheep, pigs and articles of agricultural production or requirement. Public fairs for sale of cattle, etc.

(a) The by-law shall prescribe rules and regulations for the government of the fairs, and appoint a person to see that they are carried out, and shall also fix the fees to be paid to him by persons attending the fair, and public notice of the passing of the by-law shall be forthwith given by the council. Rules for governing same. Notice of passing of by-law.

2. For appointing one or more surgeons for the institutions, other than the jail, under the control of the corporation. Appointment of surgeons.
R.S.O. 1937, c. 266, s. 431.

409. By-laws may be passed by the councils of counties, cities, separated towns and towns in unorganized territory:

1. For defining areas within which tanneries, salvage shops, salvage yards or second-hand goods shops, or industries of a noxious or unhealthy character, may not be carried on. Defining areas in which certain trades may not be carried on.

(a) This paragraph shall not apply to a tannery erected before the 7th day of April, 1890. R.S.O. 1937, c. 266, s. 432; 1949, c. 61, s. 21.

410.—(1) By-laws may be passed by the councils of counties, townships, towns and villages and of cities having a population of less than 100,000, and by boards of commissioners of police of cities having a population of not less than 100,000:

1. For licensing, regulating and governing persons who go from place to place or to a particular place with goods, wares or merchandise for sale, or who carry and expose samples, patterns or specimens of any goods, wares or merchandise which is to be delivered in the municipality afterwards. Licensing, etc., salesmen.

(a) No such licence shall be required for hawking, peddling or selling goods, wares or merchandise, When licence not required.

(i) to wholesale or retail dealers in similar goods, wares or merchandise, or

(ii) if the goods, wares or merchandise are grown, produced or manufactured in Ontario and are hawked, peddled or sold by the grower, producer or manufacturer or his agent or employee having written authority so to do, in

the municipality in which the grower, producer or manufacturer resides, or

- (iii) if the goods, wares or merchandise are grown or produced by a farmer resident in Ontario who offers for sale or sells only the produce of his own farm, or
- (iv) if the goods, wares or merchandise are hawked, peddled or sold by a person who pays business tax in the municipality, or by his employee, or by his agent, or
- (v) if the goods, wares or merchandise are hawked, peddled or sold by an agent of the grower, producer or manufacturer, acting on behalf of a dealer who pays business tax in the municipality in respect of premises used for the sale of such goods, wares or merchandise.

Production of authority of servant.

- (b) Such servant or employee shall exhibit his authority when required so to do by any municipal or peace officer.

Onus of proof that no licence required.

- (c) In a prosecution for a breach of the by-law the onus of proving that he does not for any of the reasons mentioned in clause *a* require to be licensed shall be upon the person charged.

Certain powers not affected.

- (d) Nothing in this paragraph shall affect the powers to pass by-laws, under sections 392 and 393, paragraph 1 of section 412, and paragraphs 13, 14 and 15 of section 413.

Force of by-law of town, etc., not separated.

- (e) Where the council of a town, village or township not separated from a county has passed a by-law under this paragraph the by-law of the county shall not be in force in the town, village or township while the by-law of such town, village or township remains in force.

Fees.

- (f) The fee to be paid for the licence under by-laws passed under this paragraph may be lower in the case of persons who have resided continuously within the municipality for which the licence is sought for at least one year prior to the application therefor than in the case of persons who have not so continuously resided, but no licence fee in excess of \$2 shall be prescribed in the by-law without the approval of the Department.

Licence to be produced on demand.

- (g) The licensee shall at all times whilst carrying on his business have his licence with him and shall upon

demand exhibit it to any municipal or peace officer, and if he fails to do so shall, unless the same is accounted for satisfactorily, be liable to a penalty of not less than \$1 and not more than \$5.

- (h) If a peace officer demands the production of a licence Penalty. by any persons to whom the by-law applies and the demand is not complied with, it shall be the duty of the peace officer, and he shall have power to arrest such person without a warrant and to take him before the nearest justice of the peace, there to be dealt with according to law. R.S.O. 1937, c. 266, s. 433, par. 1; 1941, c. 35, s. 18; 1947, c. 69, s. 42; 1948, c. 59, s. 21.

2. For providing the treasurer or clerk of the county, or the clerk of any municipality within the county with licences under by-laws passed under paragraphs 1 and 8 to be issued under such regulations as may be prescribed to persons applying for them. R.S.O. 1937, c. 266, s. 433, par. 2; 1949, c. 61, s. 22. Supplying licences.

3. For prohibiting the sale of fruit, candy, peanuts, ice cream or ice cream cones from a basket or a wagon, cart or other vehicle upon any highway or part of it, or in any public park or other public place. Prohibiting sale of fruit, etc., on public streets, etc.

- (a) The by-law shall not apply to a farmer, market gardener or other person selling or delivering goods at any place of business or residence upon such highway or part thereof. Proviso.

4. For licensing, regulating and governing persons not being wholesale dealers residing in Ontario who go from place to place or to a particular place to make sales or deliveries of fruits and garden produce to a retail dealer and for licensing, regulating and governing bakers, butchers and grocers whose place of business is out of Ontario but who go from place to place or to a particular place in Ontario to make sales or deliveries of bread, meat and groceries to any person other than to a retail dealer. Licensing dealers in fruit.

- (a) The fee to be paid for the licence shall not exceed \$250. Fee.

- (b) The provisions of clauses *e*, *g* and *h* of paragraph 1 shall apply to a by-law passed under this paragraph. Application of par. 1 to by-law. R.S.O. 1937, c. 266, s. 433, pars. 3, 4.

5. For licensing and governing suitable persons to keep intelligence offices for the purpose of registering the names and residences of servants, workmen, clerks and other persons seeking employment and procuring employment for them and giving information to them and to persons in need of their Licensing intelligence offices.

services; for fixing the fees to be charged by the keepers of such offices, and the duration of the licence; for regulating such intelligence offices, and for revoking any such licence.

Fees.

(a) The licence fee shall not exceed \$10 for one year.

Limiting
number of,
and licensing
victualling
houses, etc.

6. For limiting the number of and licensing and regulating victualling houses, ordinaries, and houses where fruit, fish, oysters, clams or victuals are sold to be eaten therein, and places for the lodging, reception, refreshment or entertainment of the public, and for revoking the licence.

Fees.

(a) The sum to be paid for the licence shall not exceed \$20.

Licensing
food shops.

7. For licensing, regulating and controlling all places where food stuffs intended for human consumption are made for sale, offered for sale, stored or sold.

Fees.

(a) The licence fee shall not exceed the sum of \$1 for one year. R.S.O. 1937, c. 266, s. 436.

Auctioneers.

8. For licensing, regulating and governing auctioneers and other persons selling or putting up for sale goods, wares, merchandise or effects by public auction, and for prohibiting the granting of a licence to an applicant who is not of good character, or whose premises are not suitable for the business of auctioneer or are upon a residential or other highway in which it is deemed not desirable that the business should be carried on; for ascertaining by such means as the by-law may provide whether an applicant is not of good character or his premises are not suitable for the business and for determining the time the licence shall be in force.

(a) No such by-law shall apply to a sheriff or bailiff offering for sale goods or chattels seized under an execution or distrained for rent.

Bill posters.

9. For licensing, regulating and governing bill posters, advertising sign painters, bulletin board painters, sign posters and bill distributors, and for prohibiting the posting up or distributing of posters, pictures or hand bills which are indecent or tend to corrupt morals.

(a) A by-law of a county passed under this paragraph shall not have force in a town, village or township which has passed a by-law for a similar purpose.

(b) A by-law passed under this paragraph may provide that no such licence shall be required by a person who works only as an employee of a person licensed. 1946, c. 60, s. 57.

(2) A by-law passed by a council of a county under paragraphs 1 to 4 of subsection 1 shall, whether the same is mentioned or not, cover and include the boundary line or highway between such county and an adjoining county, and a sale made on such boundary line or highway to a resident of a county in which such by-law is in force shall be and constitute a breach of such by-law in the same manner and with like consequence and effect as if made wholly within the said county. R.S.O. 1937, c. 266, s. 434.

By-law to cover sales on county boundary lines.

411. By-laws may be passed by the councils of counties, cities and towns, and of townships bordering on a city having a population of not less than 100,000:

1. For regulating and governing the business of dry cleaning, dry dyeing, cleaning and pressing and spotting or stain removing; for licensing any person using any land in the municipality for the purposes of any such business including land used for the purpose of receiving articles or goods to be subjected to any such process and for the distribution of articles or goods which have been subjected to any such process; for authorizing the architect or other person named in the by-law to allow such variation from the standard requirements in the case of any existing business as he may approve; for establishing a maximum and minimum tariff of charges to be made by any person engaging in any such business and for revoking any such licence.

Licensing, etc., dry cleaners, etc.

(a) Where the council of a town or township has passed a by-law under this section the by-law of the county shall not be in force in the town or township while the by-law of the town or township remains in force. R.S.O. 1937, c. 266, s. 435; 1940, c. 18, s. 15.

Application of by-law.

412. By-laws may be passed by the councils of towns and villages and of townships bordering on a city having a population of not less than 100,000, and of cities having a population of less than 100,000 and by boards of commissioners of police of cities having a population of not less than 100,000:

1. For regulating the storage, handling and sale of fresh meats and of fresh fish and prescribing the equipment and appliances necessary to conduct such business under sanitary conditions, and for granting annually or oftener licences for the sale of fresh meat in quantities less than by the quarter carcass and of fresh fish and fixing and regulating the places where such sale shall be allowed, and for prohibiting the sale of fresh meat in less quantities than the quarter carcass and of fresh fish, unless by a licensed person and in a place authorized by the council.

Regulating sale of meat.

- (a) The power conferred by this paragraph shall not be affected or restricted by anything in section 393.
- (b) Nothing in this paragraph shall affect the powers conferred by paragraphs 3 and 4 of section 392.
- (c) The fee to be paid for the licence shall not exceed \$50 in a city and \$25 in a town, township or village.

Licensing
and regula-
ting keepers
of tobacco
stores.

2. For licensing, regulating and governing keepers of stores and shops where tobacco, cigars or cigarettes are sold by retail, and for revoking any such licence. R.S.O. 1937, c. 266, s. 438.

Licensing,
etc., street
photo-
graphers.

3. For licensing, regulating and governing photographers and other persons who for gain use photographic cameras or other similar devices in or upon any highway or public place and for revoking any such licence. 1939, c. 30, s. 32.

413. By-laws may be passed by the councils of towns, townships, villages and cities having a population of less than 100,000 and by boards of commissioners of police of cities having a population of not less than 100,000:

Billiard,
pool and
bagatelle
tables.

1. For licensing, regulating and governing persons who for hire or gain, and proprietary clubs which directly or indirectly keep, or have in their possession, or on their premises, any billiard, pool or bagatelle table, or keep or have any such table, whether used or not, in a house or place of public entertainment or resort; for limiting the number of licences to be granted and the number of such tables which shall be licensed and for revoking any such licence.

Interpre-
tation.

- (a) "Proprietary club" means all clubs other than those in which the use of any such table is only incidental to the main objects of the club. R.S.O. 1937, c. 266, s. 439, par. 1.

Drain
contractors.

2. For licensing, regulating and governing drain contractors and drain layers. 1944, c. 39, s. 44.

Electrical
workers.

3. For examining, licensing, regulating and governing electrical contractors, electricians, master electricians and journeyman electricians.

Interpre-
tation.

- (a) For the purpose of this paragraph, "master electrician" means a person who is skilled in the planning, superintending and installing of wires, conduits, apparatus, fixtures or other appliances for the carrying or using of electricity for light, heat or power purposes, who is familiar with the laws, rules and regulations governing the same, who has a regular place of business in the municipality and who, himself, or by journeyman electricians in his employ, performs electrical work; and "journeyman elec-

trician" means a person other than a master electrician, who has been employed in electrical installation and has acquired sufficient skill and knowledge of the trade to be considered a safe and responsible mechanic.

- (b) The by-law shall not apply to the employees of a public service commission or corporation. 1946, c. 60, s. 59, *part*.

4. For regulating and licensing, subject to the provisions of *The Theatres and Cinematographs Act*, exhibitions held for hire or gain, theatres, music halls, bowling alleys, moving picture shows, public halls and all places of amusement, and for prohibiting the location of them, or a particular class of them, on land abutting on any highway or part of a highway to be named in the by-law and for revoking any such licence. R.S.O. 1937, c. 266, s. 439, par. 2.

Exhibitions,
bowling
alleys, etc.
Rev. Stat.,
c. 389.

5. For prohibiting or regulating and licensing exhibitions of wax works, menageries, circus-riding, and other like shows usually exhibited by showmen, and for regulating and licensing roller skating rinks and other places of like amusement, and merry-go-rounds, switchback railways, carousals and other like contrivances, and for imposing penalties not exceeding the amount of the licence fee on offenders against the by-law, and for levying the same by distress and sale of the goods and chattels of the showman or proprietor, or belonging to or used in such exhibition or show whether owned or not owned by such showman or proprietor.

Exhibitions
of wax
works,
shows, etc.

- (a) A licence shall not be granted for any such exhibition or show to be held on the days of the exhibition of any district or township agricultural society, within 300 yards from the grounds of the society, or for any such exhibition or show in or in connection with which gambling is carried on or goods, wares or merchandise are sold or trafficked in.

Licences
not to be
granted for
certain
times and
places.

- (b) The fee to be paid for the licence shall not exceed \$500. R.S.O. 1937, c. 266, s. 439, par. 4.

Fees.

6. For licensing, regulating and governing dealers in coal, coke, oil or other fuel, and for revoking or suspending the licence of any such dealer.

Licensing,
etc., fuel
dealers.

- (a) The fee for such licence shall not exceed \$5 per year.
- (b) A by-law passed under this paragraph shall include dealers in coal, coke, oil or other fuel who by themselves or their employees, agents, canvassers or solicitors take orders for or deliver fuel within the municipality. 1947, c. 69, s. 43 (1).

Fuel
delivery
men.

7. For licensing, regulating and governing persons who deliver coal or other fuel, and for revoking any such licence. 1946, c. 60, s. 59, *part.*

Installers of
insulation.

8. For licensing, regulating and governing persons who carry on the business of installing insulation in buildings, and for revoking any such licence. 1946, c. 60, s. 59, *part.*

Plumbers.

9. For licensing, regulating and governing plumbing contractors, plumbers, master plumbers and journeyman plumbers.

Interpre-
tation.

(a) For the purpose of this paragraph, "master plumber" means a person who is skilled in the planning, superintending and installation of plumbing, is familiar with the laws, rules and regulations governing the same, has a regular place of business in the municipality and who himself or by journeyman plumbers in his employ performs plumbing work; and "journeyman plumber" means a person, other than a master plumber, who has been employed in plumbing installation and has acquired sufficient skill and knowledge of the trade to be considered a safe and responsible mechanic. R.S.O. 1937, c. 266, s. 439, par. 3; 1943, c. 16, s. 18.

Shoe repair
shops, etc.

10. For licensing, regulating and governing keepers of shoe repair or shoe shine shops, and for revoking any such licence. 1946, c. 60, s. 59, *part.*

Tag days.

11. For fixing days when persons and organizations in charitable or patriotic work may solicit contributions of money from persons on the highways of the municipality. 1946, c. 60, s. 59, *part.*

Tourist
and trailer
camps.

12. For licensing, regulating and governing tourist camps and trailer camps and for designating areas of land to be used as tourist camps or trailer camps, and for prohibiting the use of other land for such purposes.

Interpre-
tation.

(a) In this paragraph,

(i) "tourist camp" includes auto camp and any parcel of land or premises equipped with cabins used or maintained for the accommodation of the public, and any parcel of land or premises used or maintained as a camping or parking ground for the public whether or not a fee or charge is paid or made for the rental or use thereof; and

(ii) "trailer camp" means land in or upon which any vehicle so constructed that it is suitable for being attached to a motor vehicle for the

purpose of being drawn or propelled by the motor vehicle, is placed, located, kept or maintained, notwithstanding that such vehicle is jacked-up or that its running-gear is removed, but not including any vehicle unless it is used for the living, sleeping or eating accommodation of persons therein. 1946, c. 60, s. 59, *part.*

(b) No by-law prescribing a licence fee, Fees.

(i) in excess of \$10 per cabin with a maximum of \$100, for a tourist camp, or

(ii) in excess of \$100 for a trailer camp,

shall come into force or take effect until approved by the Department. 1948, c. 59, s. 22 (1).

13. For licensing, regulating and governing transient traders and other persons whose names have not been entered on the assessment roll in respect of business assessment for the then current year, and who offer goods, wares or merchandise for sale by auction, conducted by themselves or by a licensed auctioneer or otherwise, or who offer them for sale in any other manner. R.S.O. 1937, c. 266, s. 439, par. 5; 1948, c. 59, s. 22 (2). Licensing and regulating transient traders.

14. For requiring transient traders and other persons whose names are not entered on the assessment roll or are entered on it for the first time, in respect of business assessment, and who so offer goods, wares or merchandise for sale, to pay a licence fee before commencing to trade. Requirement as to obtaining licence before doing business.

For the purpose of paragraphs 13 and 14,

(a) "Transient trader" includes any person commencing business who has not resided continuously in the municipality for at least three months next preceding the time of his commencing such business there. "Transient trader".

(b) The by-law shall not apply to the sale of the stock of a bankrupt or an insolvent, within the meaning of any bankruptcy or insolvency Act in force in Ontario, nor to the sale of any stock damaged by or by reason of fire, which is being sold or disposed of within the municipality in which the business was being carried on at the time of the bankruptcy, insolvency or fire so long as no goods, wares or merchandise are added to such stock. Stock of insolvent.

(c) The by-law shall not apply to the sale of a business to a *bona fide* purchaser who continues the same. Bona fide purchaser.

- Fees. (d) Subject to clause *e*, the fee to be paid for a licence in the case of a transient trader shall not be less than \$100 in any municipality and shall not exceed in a city or town \$500 and in a township or village \$300.
- Resident fee. (e) The fee to be paid for the licence by a farmer, resident in Ontario, who offers for sale only the produce of his own farm shall not exceed \$5.
- Credit of fees on taxes. (f) The sum paid for a licence shall be credited to the person paying it, or to any *bona fide* purchaser of the business who carries on the same, on account of taxes payable in respect of the business during the year in which the licence was issued and five years thereafter.
- Penalty for offence. (g) Every transient trader who carries on business without a licence shall be guilty of an offence and shall be liable to a penalty equal to the licence fee which he should have paid and in addition thereto the sum of not less than \$10 and not more than \$200.
- Licence to be displayed. (h) Every transient trader shall cause his licence to be prominently and permanently displayed in his place of business during the full term in which he is carrying on business as a transient trader and in default thereof shall be guilty of an offence and liable to a penalty of not less than \$1 and not more than \$10.
- Application for licence to contain certain information. (i) Every applicant for a transient trader's licence shall as part of his application for such licence furnish a statement in writing containing a full description of the goods, wares or merchandise which he proposes to sell or offer for sale under such licence. R.S.O. 1937, c. 266, s. 439, par. 6; 1947, c. 69, s. 43 (2); 1948, c. 59, s. 22 (3).
- Certain persons commencing business to pay licence fee. 15. For requiring persons not licensed under paragraph 13 or 14 who, after the return of the assessment roll, commence to carry on any business in premises in respect to which they are liable for business assessment, to pay a licence fee before commencing such business.
- Amount thereof. (a) The amount of such licence fee shall be a sum computed by reference to the tax on such business assessment which such person would have been required to pay for the current year in respect to the premises in which he has commenced business if he had been previously assessed and made liable for such tax, and shall be either one-half the amount of such tax for the whole year or a proportionate part of same for the balance of the year after he commences business, whichever is the greater. 1938, c. 22, s. 12.

414. By-laws may be passed by the councils of towns and villages and boards of commissioners of police of cities:

1. For regulating or prohibiting the playing of bands and of musical instruments in any highway, park or public place except by a military band attached to any regular corps of the Militia of Canada when on duty, under the command of its regular officer. R.S.O. 1937, c. 266, s. 440, par. 1. Bands of music.

2. For licensing, regulating and governing persons who for hire or gain purchase or deal in old gold and other precious metals and in old jewellery or other articles for the purpose of smelting the same and recovering the gold therefrom, and for revoking any such licence. Licensing of dealers in old gold, etc.

(a) The fee to be paid for a licence shall not exceed \$25 per year. R.S.O. 1937, c. 266, s. 440, par. 4; 1941, c. 35, s. 19.

3. For licensing, regulating and governing persons selling newspapers and magazines upon any highway and for restricting the operations of such persons to a particular location upon a highway, and for restricting the operations of such persons to the sale of newspapers and magazines only, and for prohibiting the selling or offering for sale upon any highway of books, periodicals, pamphlets or other printed matter except newspapers and magazines, and for revoking any such licence. R.S.O. 1937, c. 266, s. 440, par. 3. Sale of newspapers and magazines on streets.

4. For prohibiting keepers of second-hand goods shops or salvage stores or shops, directly or indirectly purchasing from, exchanging with, or receiving in pledge from any minor appearing to be under the age of 18 years, without written authority from a parent or guardian of such minor, any metals, goods or articles. R.S.O. 1937, c. 266, s. 440, par. 2; 1948, c. 59, s. 23. Salvage shops buying from minors.

415. By-laws may be passed by boards of commissioners of police of cities.

1. For regulating and controlling children engaged as express or dispatch messengers, vendors of smallwares and bootblacks. Occupations of children.

2. For regulating the hours of labour of persons employed in livery or boarding stables as drivers of motor vehicles, cabs, carriages or sleighs kept for hire, or by the owners of horses, carts, trucks, omnibuses and other vehicles kept for hire. Regulating hours of labour of persons employed in livery stables, etc.

3. For regulating parades or processions on highways, and from time to time, and as occasion may require, prescribing the routes of travel to be observed by all vehicles, horses and persons upon the highways, and preventing the obstruction of the highways during public processions or public demonstrations, Regulating traffic and parades.

and for giving directions to constables for keeping order, and preventing any collision or obstruction of traffic at the intersections or other frequented portions of the highways, on all occasions when the highways are thronged or liable to obstruction.

- (a) This paragraph shall not affect the right, if any, of a street railway company to regulate the routes of its cars and no regulation or direction which may affect a street railway company shall be made or given until the company has been afforded an opportunity of being heard. R.S.O. 1937, c. 266, s. 441, pars. 2-4.

County council to make provision for destitute mental defectives, etc. Rev. Stat., c. 229.

416. The council of every county shall make provision for the whole or partial support within the county of such mentally ill, mentally defective or epileptic destitute persons as cannot be admitted to an institution within the meaning of *The Mental Hospitals Act*, and shall determine the sums to be paid for such support, and the persons to whom the same shall be paid. R.S.O. 1937, c. 266, s. 443.

Remuneration of members of council.

417.—(1) The council of a municipality may pass by-laws for paying the members of the council for their attendance at meetings at the following rates:

- (a) in the case of a county and a township having a population of not less than 10,000, at a rate not exceeding \$8 a day for attendance at meetings of the council or of its committees and 10 cents for each mile necessarily travelled in going to such meetings;
- (b) in the case of a city having a population of less than 100,000, a town and a township having a population of less than 10,000, at a rate not exceeding \$5 a day for attendance at meetings of the council, and in the case of such a township 10 cents for each mile necessarily travelled in going to such meetings;
- (c) in the case of a village, at a rate not exceeding \$3 a day for attendance at meetings of the council. R.S.O. 1937, c. 266, s. 444 (1).

Where head receives salary.

(2) Where under section 230 the head of the municipality is paid an annual or other remuneration, such head shall not be entitled to payment under this section for attendance at meetings. R.S.O. 1937, c. 266, s. 444 (2); 1944, c. 39, s. 45.

Fees to members of utility commission.

(3) The provisions of this section shall be deemed to authorize payments at the rates mentioned in subsection 1 to members of the council for their services as members of any utility commission to which they are appointed under the authority

of any general or special Act. R.S.O. 1937, c. 266, s. 444 (3), *amended*.

418.—(1) The council of a municipality may pass by-laws for paying an annual allowance to the members of the council at the following rates: Annual remuneration.

- (a) in the case of a city having a population of not less than 200,000, an annual allowance not exceeding \$1,200 to aldermen and an additional allowance not exceeding \$100 to each chairman of a standing committee and to the chairman of the court of revision and the local board of health;
- (b) in the case of any other municipality, such annual allowance as may be approved by the Department.

(2) Every by-law passed under subsection 1 shall provide for the deduction from the annual allowance of a reasonable sum to be fixed by the council for each day's absence from meetings. Deduction for absences. 1944, c. 39, s. 46; 1947, c. 69, s. 46.

419. A local board as defined in *The Department of Municipal Affairs Act*, except school and library boards, may provide for the payment of such annual allowance for the members thereof as may be approved by the Department. Annual allowances for local board. Rev. Stat., c. 96. 1944, c. 39, s. 47.

420. A member of the council of a county, village or township may be appointed commissioner, superintendent or overseer of any highway or of any work undertaken wholly or in part at the expense of the corporation, and may be paid the like remuneration for his services as if he were not a member of the council. Appointment of member of council as road commissioner, etc. R.S.O. 1937, c. 266, s. 447.

421. The council of a city, town, village, county or township may pay for or towards the reception or entertainment of persons of distinction or the celebration of events or matters of national interest or importance, or for or towards travelling or other expenses incurred in respect to matters pertaining to or affecting the interests of the corporation, a sum not exceeding in any year, Expenses of entertaining guests and for travelling on civic business.

- (a) in the case of a city having a population of not less than 200,000—\$30,000;
- (b) in the case of a city having a population of not less than 100,000—\$20,000;
- (c) in the case of a city having a population of not less than 50,000—\$10,000;

- (d) in the case of a city or town having a population of not less than 20,000—\$2,500;
- (e) in the case of a city or town having a population of not less than 10,000—\$1,000;
- (f) in the case of a county—\$1,500;
- (g) in the case of other municipalities—\$500. R.S.O. 1937, c. 266, s. 448.

Appropriation for diffusing information re advantages of municipality.

422.—(1) The council of every city having a population of not less than 100,000 may expend a sum not exceeding in any year 20 cents per head of its population and the council of a city having a population of not less than 30,000 may expend a sum not exceeding in any year 10 cents per head of its population, and the council of a city having a population of less than 30,000 may expend a sum not exceeding in any year \$3,000, and the council of every township or town bordering on a city having a population of not less than 100,000 may expend a sum not exceeding in any year \$2,000, and the council of every town having a population of not less than 5,000 and the council of every county may expend a sum not exceeding in any year \$1,000, in diffusing information respecting the advantages of the municipality as a manufacturing, business, educational or residential centre, or as a desirable place in which to spend the summer months, and the councils of other municipalities may expend for the like purpose in any year such sum as may be approved by the Department. R.S.O. 1937, c. 266, s. 449 (1); 1946, c. 60, s. 61.

Municipalities in Muskoka may exceed limit in subs. 1.

(2) Notwithstanding anything in subsection 1, any municipality in the Territorial District of Muskoka may expend a sum not exceeding in any year the amount of one mill in the dollar on its total assessment for the purposes specified in subsection 1, and any two or more of such municipalities may pool their funds and act jointly for the said purposes. R.S.O. 1937, c. 266, s. 449 (2).

PART XX

HIGHWAYS AND BRIDGES

POWERS AND DUTIES AS TO

Interpretation.

423.—(1) In this Part, "county bridge" means a bridge under the exclusive jurisdiction of the council of a county.

Exception.

(2) Except as provided by section 438, this Part shall not apply to a Provincial road or bridge under the control of the Crown. R.S.O. 1937, c. 266, s. 450.

424. Where power is conferred by this Part upon a council to pass by-laws for acquiring or for assuming a highway it shall include the power to pass by-laws for acquiring or for assuming part of a highway. R.S.O. 1937, c. 266, s. 451.

Power to
acquire
part of
highway.

425. Where power to pass by-laws in respect of a highway or bridge is conferred by this Act on a council, unless otherwise expressly provided it shall be exercisable only by the council having jurisdiction over the highway or bridge, or if the highway or bridge is under the joint jurisdiction of two or more councils only by the joint action of such councils, and a by-law by all of them shall be necessary for the exercise of such power. R.S.O. 1937, c. 266, s. 452.

What coun-
cils to exer-
cise powers
re highways
and bridges.

426. Except in so far as they have been stopped up according to law all allowances for roads made by the Crown surveyors, all highways laid out or established under the authority of any statute, all roads on which public money has been expended for opening them, or on which statute labour has been usually performed, all roads passing through Indian lands, all roads dedicated by the owner of the land to public use, and all alterations and deviations of and all bridges over any such allowance for road, highway or road, shall be common and public highways. R.S.O. 1937, c. 266, s. 453.

What shall
constitute
public
highways.

427.—(1) Unless otherwise expressly provided, the soil and freehold of every highway shall be vested in the corporation or corporations of the municipality or municipalities, the council or councils of which for the time being have jurisdiction over it under the provisions of this or any other Act.

Highways
vested in
corporation
having
jurisdiction
over them.

(2) In the case of a dedicated highway such vesting shall be subject to any rights in the soil reserved by the person who laid out or dedicated the highway. R.S.O. 1937, c. 266, s. 454.

Reservation
of rights
in soil.

428. Except where jurisdiction over them is expressly conferred upon another council, the council of every municipality shall have jurisdiction over all highways and bridges within the municipality. R.S.O. 1937, c. 266, s. 455.

Jurisdiction
of councils
over high-
ways.

429. Sections 427 and 428 shall not apply to roads or bridges owned by companies or individuals. R.S.O. 1937, c. 266, s. 456.

Exception
as to road
owned by
company,
etc.

430.—(1) The council of a county shall have jurisdiction over,

(a) every highway, bridge and boundary line assumed by the council;

Jurisdiction
of county
councils over
roads and
bridges.

- (b) every bridge crossing a river, stream, pond or lake forming or crossing a boundary line between local municipalities other than a city or separated town in the county;
- (c) every bridge crossing a river or stream over 100 feet in width within the limits of a village in the county where the bridge forms part of a main highway leading through the county.

Power to
limit juris-
diction.

(2) The council may provide that the jurisdiction conferred upon it by clause *b* of subsection 1 shall not extend to bridges over rivers, streams, ponds or lakes, less than 80 feet in width, or of such width less than 80 feet as may be specified in the by-law. R.S.O. 1937, c. 266, s. 457.

Jurisdiction
over bridges
on county
boundaries.

431. The councils of the corporations whose duty it is to erect and maintain bridges over rivers, streams, ponds or lakes forming or crossing a boundary line between counties shall have joint jurisdiction over such bridges. R.S.O. 1937, c. 266, s. 458.

Jurisdiction
over bridges
on boundar-
ies between
county and
city, etc.

432. The councils of the corporations whose duty it is to erect and maintain bridges over rivers, streams, ponds or lakes forming or crossing a boundary line between a county and a city or separated town shall have joint jurisdiction over such bridges. R.S.O. 1937, c. 266, s. 459.

Jurisdiction
over bound-
aries
between
local muni-
cipalities.

433. The councils of the local municipalities between which they run shall have joint jurisdiction over all boundary lines, whether or not they form also county boundary lines, which have not been assumed by the council of the county, and over the bridges on them except such bridges crossing rivers, streams, ponds or lakes forming or crossing such boundary lines as by the provisions of this Act are under the jurisdiction of another council or other councils. R.S.O. 1937, c. 266, s. 460.

Jurisdiction
where cor-
poration
owns bridge,
etc., in an-
other muni-
cipality.

434. Where a boulevard, drive or highway or a public avenue or walk is owned or has been opened and laid out or is under the authority of this Act assumed, or a bridge is owned or has been constructed or is under the authority of this Act assumed by the corporation of a municipality other than that in which it is situate, the council of that corporation shall have jurisdiction over it. R.S.O. 1937, c. 266, s. 461.

Assumption
by villages
of bridges
under con-
trol of
county.

435.—(1) The council of a village may pass by-laws for the assumption by the corporation of the village, with the consent of, and on such terms and conditions as may be agreed on with the council of the county, of any bridge within the

limits of the village and under the jurisdiction of the council of the county.

(2) When the by-law takes effect the bridge shall cease to be under the jurisdiction of the council of the county and shall come and thereafter remain under the jurisdiction of the council of the village, and shall be and remain toll free. R.S.O. 1937, c. 266, s. 462. Effect of by-law.

436. The council having jurisdiction over a bridge shall have jurisdiction over the approaches to it for 100 feet next adjoining each end of the bridge. R.S.O. 1937, c. 266, s. 463. Approaches to bridges.

437.—(1) The corporations of adjoining municipalities may enter into an agreement for the maintenance and repair of any highway forming the boundary between such municipalities, including the bridges thereon which it is their duty to maintain and repair, whereby each of them may undertake, for a term of years not to exceed 10 years, to maintain and keep in repair any portion of such highway for its whole width, and to indemnify and save harmless the other from any loss or damage arising from the want of repair of such portion. Agreements between adjoining municipalities as to maintenance of boundary road.

(2) When the agreement is confirmed by by-law of the council of each of the municipalities, the by-law shall be registered in the registry office of the registry division in which the highway is situate. Agreement to be registered.

(3) After the registration of the by-law, each corporation shall have jurisdiction over that portion of the road which it has undertaken to maintain and keep in repair, and shall be liable for the damages incurred by reason of neglect to maintain and keep the same in repair, and the other corporation shall be relieved from all liability in respect of its maintenance and repair. R.S.O. 1937, c. 266, s. 464. Effect of.

438. Where the Lieutenant-Governor in Council by proclamation declares, which it shall be lawful for him to do, that any public road or bridge under the control of the Minister of Highways shall not be under his control after a day named in the proclamation, such road or bridge shall after that day cease to be under the control of the Minister, and no tolls shall be collected thereon and the road or bridge shall be under the jurisdiction of the council of the local municipality in which it is situate, or if it is partly situate in two or more municipalities shall be under the jurisdiction of the councils of such municipalities, each having jurisdiction over the part which lies within its municipality, or if it lies between two or more municipalities shall be under the joint jurisdiction of their councils. R.S.O. 1937, c. 266, s. 465. Proclamation bringing government road or bridge under jurisdiction of municipality.

Assumption
by county
councils of
highways,
bridges and
boundary
lines.

439.—(1) The council of a county may by by-law assume as a county road any highway, or as a county bridge any bridge, within a town, not being a separated town, or within a village or township.

Assent.

(2) The by-law shall not take effect until assented to by the council of the town, village or township.

County or
township
boundary.

(3) The council of a county may also by by-law assume as a county road any county or township boundary line.

Connecting
road in
town.

(4) The council of a county may also by by-law assume as a county road any highway in a town, not being a separated town, or in a village or township which connects with a county road.

Bridges on
such high-
way.

(5) Where a highway is assumed under this section the bridges thereon shall also be assumed as county bridges.

Repeal of
by-law.

(6) A by-law passed under this section may be at any time repealed by the council of the county.

Effect of
repeal.

(7) After the repeal of the by-law such highway or bridge shall cease to be under the jurisdiction of the council of the county and shall fall and be under the jurisdiction of the council or councils which had jurisdiction over it at the time of the passing of the by-law for assuming it. R.S.O. 1937, c. 266, s. 466.

Grants in
aid.

(8) Where a county assumes a highway or bridge under this section, the town, village or township within which the highway or bridge is situate may make grants to the county in aid of the maintenance or reconstruction thereof and the maintenance of the reconstructed highway or bridge, or where the highway or bridge is relocated, in aid of the construction and maintenance of the relocated highway or bridge. 1946, c. 60, s. 62 (1).

Assuming
highway in
adjacent
municipality
as a public
avenue or
walk.

440.—(1) The council of a city or town may pass by-laws for assuming for the purpose of a public avenue or walk any highway in an adjacent local municipality and for acquiring so much land on either side of such highway as may be required to increase its width to not more than 100 feet.

Assent of
other
council.

(2) The by-law shall not take effect until it is assented to by by-law of the council of the adjacent municipality. R.S.O. 1937, c. 266, s. 467.

Abandon-
ment by
county of
roads.

441.—(1) The council of a county may by by-law abandon the whole or any part of a toll road owned by the corporation of the county or of any other road owned by it, whether the road is situate wholly within the county or partly within it and partly within an adjoining county.

(2) Forthwith after the passing of the by-law the clerk shall transmit by registered post to the clerk of every local municipality through or along or on the border of which the road runs, a copy of the by-law certified under his hand and the seal of the corporation to be a true copy.

Clerk to transmit copies of by-law.

(3) The by-law shall not take effect until it is approved by the Municipal Board, nor shall it take effect as to the part of the road lying within or along or on the border of a local municipality whose council does not by by-law assent to the by-law.

Approval of Municipal Board.

(4) From and after the taking effect of the by-law the council of a municipality within which any part of the road so abandoned lies shall have jurisdiction over that part of it which lies within the municipality, and where any part of a road so abandoned lies between or on the border of two or more local municipalities the councils of such municipalities shall have joint jurisdiction over that part of it.

Jurisdiction after abandonment.

(5) Nothing in this section shall extend or apply to a bridge which under the provisions of this Act is to be maintained wholly or partly by the corporation of the county. R.S.O. 1937, c. 266, s. 468.

Exception.

442.—(1) A bridge of a greater length than 300 feet in a town having an equalized assessment of less than \$1,000,000 or in a township may, on the application of the council of the town or township, be declared to be a county bridge where,

Bridges over 300 ft. in length in townships and certain towns may be declared county bridges.

- (a) it is used by the inhabitants of other municipalities;
- (b) it is situate on an important highway affording means of communication to several municipalities; and
- (c) on account of its length and for the reasons mentioned in clauses *a* and *b*, it is unjust that the burden of maintaining and repairing it should rest upon the corporation of the town or township.

(2) An order declaring the bridge to be a county bridge may be made by a judge of the county court of the county in which it is situate, on the application of the council of the town or township.

Order of judge.

(3) Notice of the application shall be served on the corporation of the county at least 30 days before the day on which it is to be made.

Notice of application.

(4) Each corporation shall be entitled to be represented by counsel on the hearing of the application, and the evidence may, if the judge sees fit, and shall, if either party so requests, be given under oath.

Hearing.

Power of
judge.

(5) If the judge is of opinion that for the reasons mentioned in subsection 1, the bridge should be declared to be a county bridge, he shall by his order so declare, and in that case he shall determine whether the expense of maintaining and repairing the bridge shall be borne by the corporation of the county or partly by it and partly by the corporation of the town or township, and if he determines that it should be borne partly by each, he shall fix the proportions in which the expense is to be so borne, and his declaration and determination shall be embodied in the order.

Registration
of order.

(6) If the order declares the bridge to be a county bridge it shall be registered in the registry office of the registry division in which the bridge is situate.

Appeal.

(7) An appeal shall lie from the order of the judge to the Court of Appeal and the proceedings upon and incidental to the appeal shall be the same as in the case of an appeal from a judge of the Supreme Court sitting in court.

Registration
of order of
Court of
Appeal.

(8) If the order is reversed or varied by the order of the Court of Appeal, or if an order declaring the bridge to be a county bridge is made by the Court of Appeal, the order of that court shall be registered as provided by subsection 6.

Effect of
order after
registration.

(9) Where the order of the judge of the county court declares the bridge to be a county bridge, except where it is reversed, and subject to any variation of it on appeal, from and after the registration of the order, or where the order has been reversed and an order declaring the bridge to be a county bridge has been made by the Court of Appeal, from and after the registration of the order of the Court of Appeal, the bridge shall be a county bridge.

Payment to
county of
proportion
of mainten-
ance.

(10) Whenever any expenditure is made by the corporation of the county in maintaining or repairing the bridge a proportion of which the corporation of the town or township is by the order required to bear, that proportion of the expenditure shall be payable by the last-named corporation to the corporation of the county on demand.

When new
application
may be
made.

(11) Where the application is dismissed, either by the order of the judge of the county court or by the order of the Court of Appeal, a new application shall not be made until five years have elapsed from the date of the order, and any new application thereafter made may be dealt with without regard to the former order, and subsections 1 to 10 shall apply *mutatis mutandis* to the application.

Approaches,
when to
form part
of bridge.

(12) In the case of a bridge crossing a river, stream, pond or lake, the approaches to the bridge whether consisting of embankments or other artificial works to the extent to which they

are rendered necessary on account of the waters of the river, stream, pond or lake overflowing the highway on one or on both sides of the river, stream, pond or lake in times of freshets or at any other time, shall be deemed for the purpose of this section to form part of the bridge.

(13) This section shall also apply to a bridge which it is proposed to construct, including a bridge to replace an existing one and a bridge to replace one that has been carried away or destroyed or so damaged that it is necessary to rebuild it, and the application may be made before the work of construction is begun.

Application of section to construction and renewal of bridge.

(14) In the case of an application to which subsection 13 applies it shall be the duty of the judge to consider and determine whether a bridge of the length of that which it is proposed to erect is necessary for the purpose for which it is to be erected, and if he is of opinion that a bridge of 300 feet or less will be sufficient for that purpose it shall be the duty of the judge so to determine and to refuse to make an order under this section.

Determination by judge as to length of bridge required.

(15) In the case provided for by this section the council of the town or township and the council of the county may at any time enter into an agreement as to the proportions in which the cost of maintaining the bridge and keeping it in repair shall be borne by their respective corporations, or in a case to which subsection 13 applies as to the proportions in which the cost of constructing and maintaining the bridge and keeping it in repair shall be borne by their respective corporations.

Power to agree as to maintenance.

(16) The agreement shall provide that the bridge shall thereafter or after a day to be named be under the exclusive jurisdiction of the council of the county or remain under the jurisdiction of the council of the town or township.

What agreement to provide.

(17) The terms of the agreement shall be embodied in an order of the judge of the county court which may be made upon the application of either corporation, and the order so made shall supersede any former order made by him.

Order of judge embodying agreement.

(18) If the agreement provides that the bridge is to come under the exclusive jurisdiction of the council of the county the order made under subsection 17 shall so declare.

Idem.

(19) The order made under subsection 17 shall be registered as provided by subsection 6, and shall have the same effect as an order upon an application made under subsection 2, but the order shall not be subject to appeal. R.S.O. 1937, c. 266, s. 469.

Registration of order.

443. The council of a county which assumes, as a county road or bridge, any highway or bridge within a township, shall

Highways assumed by county to be gravelled, etc.

with as little delay as reasonably may be and at the expense of the county cause the highway to be graded and drained and gravelled, macadamized, or surfaced or paved with other permanent material, or the bridge to be built in a good and substantial manner and shall maintain and keep the same in repair. R.S.O. 1937, c. 266, s. 470.

County to build and maintain certain bridges.

444. The council of the county shall cause to be built and maintained at the expense of the corporation of the county the bridges mentioned in clauses *b* and *c* of subsection 1 of section 430. R.S.O. 1937, c. 266, s. 471.

Maintenance of bridges on county boundary lines.

445.—(1) Where a river, stream, pond or lake forms or crosses a boundary line between two or more counties, it shall be the duty of the corporations of the counties, and where it forms or crosses a boundary line between a county and a city or a separated town, it shall be the duty of the corporations of the county and the city or separated town to erect and maintain bridges over such river, stream, pond or lake. R.S.O. 1937, c. 266, s. 472.

By-law restricting duty.

(2) The council of a county may by by-law provide that the duty imposed upon the corporation by subsection 1 shall not extend to bridges over rivers, streams, ponds or lakes less than 20 feet in width. 1946, c. 60, s. 63.

Maintenance of boundary lines.

446.—(1) Boundary lines between local municipalities, including those which also form county boundary lines, shall be maintained by the corporations of such municipalities, and they shall also erect and maintain all necessary bridges on such boundary lines.

Exceptions.

(2) Subsection 1 shall not apply to boundary lines assumed by the council of the county or to such bridges as are under the provisions of this Act to be erected or maintained by another corporation. R.S.O. 1937, c. 266, s. 473.

Local municipalities to erect and maintain certain bridges.

447. Where the council of a county passes a by-law under subsection 2 of section 430 or subsection 2 of section 445 it shall be the duty of the councils of the local municipalities to erect and maintain all necessary bridges from the erection and maintenance of which the council of the county is relieved by the by-law. R.S.O. 1937, c. 266, s. 474; 1946, c. 60, s. 64.

Maintenance of boundary lines and bridges in provisional judicial district.

448. All boundary lines, and all bridges over rivers, streams, ponds or lakes forming or crossing a boundary line between two or more local municipalities in a provisional judicial district shall be erected and maintained by the corporations of such municipalities and their councils shall have joint

jurisdiction over them, and if the councils fail to agree as to the proportion of the expense to be borne by each corporation the same shall be determined by arbitration. R.S.O. 1937, c. 266, s. 475.

DRIFTWOOD IN STREAMS

449.—(1) Where a river or stream forms a boundary line between two or more municipalities in a county, the corporation of the county shall keep it free from all accumulations of driftwood or fallen timber. Keeping rivers free from driftwood, etc.

(2) Where the river or stream forms a boundary line between two or more counties, the duty mentioned in subsection 1 shall be performed by the corporations of the counties, and where the river or stream forms the boundary line between a county and a city or separated town, shall be performed by the corporation of the county and the corporation of the city or separated town, and in case of failure to agree in either case, as to the share or proportion of the expense incurred in performing the duty to be borne by them respectively, the same shall be determined by arbitration. R.S.O. 1937, c. 266, s. 476. What corporations to perform the work and apportionment of expense.

450.—(1) Where a stream or creek is cleared of all logs, brush or other obstructions to the boundary line between a township and an adjoining township into which the stream or creek flows, the council of the township in which the stream or creek has been so cleared may give notice in writing to the corporation of such adjoining township requesting its council to clear such stream or creek through the municipality. Keeping stream free from logs, brush, etc., in township.

(2) It shall be the duty of such last-mentioned corporation, within six months after the service of the notice, to enforce the removal of all obstructions in such stream or creek within the municipality, to the satisfaction of any person whom the council of the county in which the municipality whose council gave the notice is situate, appoints to inspect the same. Other township to remove obstructions.

(3) If the corporation receiving the notice neglects to perform such duty, and by reason of its neglect any highway or bridge in either of the townships becomes out of repair, the corporation in default, and that corporation only, shall be responsible for the damages sustained by any person by reason of such want of repair. R.S.O. 1937, c. 266, s. 477. Effect of failure to perform duty.

451. Where, on account of physical difficulties or obstructions existing on a boundary line between municipalities, and in order to obtain a better line of road, a road has been heretofore or is hereafter laid out and opened which does not follow the course of such boundary line throughout, but in some place or places so deviates from it as to lie wholly within one Deviations of boundary lines.

of the municipalities, such road shall nevertheless be deemed to be, for the purposes of this Act, the boundary line between the municipalities, and a river, stream, pond or lake which crosses it where it so deviates shall be deemed to be a river, stream, pond or lake crossing a boundary line within the meaning of this Act. R.S.O. 1937, c. 266, s. 478.

Specifications for certain bridges.

452.—(1) Every iron, steel, concrete or stone bridge constructed by the corporation of a county, and every such bridge exceeding 20 feet clear span constructed by the corporation of a township shall be designed and built in accordance with general specifications approved by the Department of Highways.

Duplicate plans to be submitted.

(2) Plans in duplicate for any such bridges may be submitted by the council of any county or township to the Department of Highways, and if they are found to be in accordance with such approved general specifications the certificate of the Department shall be attached, and one of the plans shall be returned to the clerk of the county or township. R.S.O. 1937, c. 266, s. 479.

Liability for repair of public roads, etc.

453.—(1) Every highway and every bridge shall be kept in repair by the corporation the council of which has jurisdiction over it, or upon which the duty of repairing it is imposed by this Act, and in case of default the corporation shall, subject to the provisions of *The Negligence Act*, be liable for all damages sustained by any person by reason of such default.

Rev. Stat., c. 252.

Limitation of actions.

(2) No action shall be brought against a corporation for the recovery of damages occasioned by such default, whether the want of repair was the result of nonfeasance or misfeasance, after the expiration of three months from the time when the damages were sustained. R.S.O. 1937, c. 266, s. 480 (1, 2).

Insufficiency of fences, etc.

(3) No action shall be brought against a corporation for the recovery of damages caused by the presence or absence or insufficiency of any wall, fence, guard rail, railing or barrier, or caused by or on account of any construction, obstruction or erection or any situation, arrangement or disposition of any earth, rock, tree or other material or object adjacent to or in, along or upon any highway or any part thereof not within the travelled portion of such highway. 1939, c. 30, s. 33.

Snow or ice on sidewalks.

(4) Except in case of gross negligence a corporation shall not be liable for a personal injury caused by snow or ice upon a sidewalk.

Notice of action.

(5) No action shall be brought for the recovery of the damages mentioned in subsection 1 unless notice in writing of the claim and of the injury complained of has been served upon

or sent by registered post to the head or the clerk of the corporation, in the case of a county or township within ten days, and in the case of an urban municipality within seven days after the happening of the injury, nor unless where the claim is against two or more corporations jointly liable for the repair of the highway or bridge, the prescribed notice was given to each of them within the prescribed time.

(6) In the case of the death of the person injured, failure to give notice shall not be a bar to the action and except where the injury was caused by snow or ice upon a sidewalk, failure to give or insufficiency of the notice shall not be a bar to the action, if the court or judge before whom the action is tried is of the opinion that the corporation in its defence was not prejudiced by the want or insufficiency of the notice and that to bar the action would be an injustice, notwithstanding that reasonable excuse for the want or insufficiency of the notice is not established.

When failure to give notice of claim is not a bar to action.

(7) This section shall not apply to a road, street or highway laid out or to a bridge built by a private person or by a body corporate until it is established by by-law of the council or otherwise assumed for public use by the corporation.

To what roads applicable.

(8) Nothing in this section shall impose upon a corporation any obligation or liability in respect of any act or omission of any person acting in the exercise of any power or authority conferred upon him by law, and over which the corporation had no control, unless the corporation was a party to the act or omission, or the authority under which such person acted was a by-law, resolution or licence of its council.

When corporation not responsible for acts of others.

(9) A corporation shall not be liable for damages under this section unless the person claiming the damages has suffered by reason of the default of the corporation a particular loss or damage beyond what is suffered by him in common with all other persons affected by the want of repair.

When corporation not liable for damages.

(10) Where a bridge which it is the duty of a corporation to repair is destroyed or so damaged that it is necessary to rebuild it the Municipal Board may, upon the application of the corporation, relieve it from the obligation to rebuild the bridge, if the Board is satisfied that it is no longer required for the public convenience or that the rebuilding of it would entail a larger expenditure than would be reasonable having regard to the use that would be made of the bridge if it were rebuilt.

Relief from obligation to rebuild.

(11) The relief may be granted on such terms and conditions as the Board may deem just, and such notice of the application shall be given as the Board may direct.

Conditions of granting relief.

Costs of
pending
actions.

(12) Subsections 10 and 11 shall not affect the costs of any pending action. R.S.O. 1937, c. 266, s. 480 (3-11).

Action for
damages for
nuisance on
highway.

454. The provisions of subsections 2 to 9 of section 453 shall apply to an action brought against a corporation for damages occasioned by the presence of any nuisance on a highway. R.S.O. 1937, c. 266, s. 481.

Snow
removal.

455. Where a municipal corporation clears or attempts to clear snow from an unopened road allowance, private road or private lane by means of a snow plough or otherwise, no liability shall attach to the corporation in so doing. 1943, c. 16, s. 19.

Registration
of plan not
to create
highway
repair
liability.
Rev. Stat.,
c. 277.

456. The approval of a plan of subdivision under *The Planning Act* and the registration thereof shall not be deemed to be an assumption by the corporation of the municipality wherein the land comprised in the plan is situate of any highways shown on the plan so as to render the corporation liable for repair, or for damages resulting from non-repair within the meaning of section 453. 1949, c. 61, s. 23.

Issue of
debentures
for refloor-
ing bridge.

457. The corporation of a city or town in which an iron, steel or concrete bridge is constructed, may pass a by-law authorizing the issue of and may issue debentures to pay the cost of reflooring the same, for any term not exceeding 10 years and at such rate of interest as the council may determine, provided that such by-law is passed by a vote of two-thirds of all the members of the council and is approved by the Municipal Board. R.S.O. 1937, c. 266, s. 483.

Apportion-
ment of
damages.

458.—(1) Where two or more corporations are jointly liable for keeping in repair a highway or bridge, there shall be contribution between them as to the damages sustained by any person by reason of their default in so doing.

Action to
be against
all corpora-
tions.

(2) Any action by any such person shall be brought against all such corporations, and any of them may require that the proportions in which such damages and the costs of the action are to be borne by them shall be determined in the action.

What to be
taken into
account.

(3) In settling such proportions, either in the action or otherwise, regard shall be had to the extent to which each corporation was responsible, either primarily or otherwise, for the act or omission by reason of which the damages became payable or are recoverable and the damages and costs shall be apportioned between them accordingly. R.S.O. 1937, c. 266, s. 484.

459.—(1) Where an action may be brought against a corporation by a person who has sustained damages by reason of its default in keeping in repair a highway or bridge, no action shall be brought by him in respect of it or to recover such damages or any part of them against any member of the council or officer or employee of the corporation personally, but the remedy therefor shall be against the corporation.

Members of council and employees not liable for non-repair of highways.

(2) A mere contractor with the corporation or an officer or employee who is such contractor, by reason of whose act or omission the damages were caused, shall not be deemed an employee within the meaning of subsection 1. R.S.O. 1937, c. 266, s. 485.

Contractors not deemed employees.

460.—(1) Where an action is brought to recover damages sustained by reason of any obstruction, excavation or opening in or near a highway or bridge placed, made, left or maintained by any person other than the corporation or a servant or agent of the corporation, or by reason of any negligent or wrongful act or omission of any person other than the corporation or a servant or agent of the corporation, the corporation shall have a remedy over against such other person for and may enforce payment of the damages and costs which are recovered against the corporation.

Remedy over for damages caused by non-repair against persons causing same.

(2) The corporation shall be entitled to such remedy over in the same action, if the other person is a party to the action and it is established in the action as against him that the damages were sustained by reason of an obstruction, excavation or opening so placed, made, left or maintained by him.

Remedy over in same action.

(3) The corporation may in such action have the other person, if not already a defendant, added as a party defendant or third party for the purposes of the remedy over, and such person may defend the action as well against the plaintiff's claim as against the claim of the corporation.

Adding party defendant.

(4) If such person is not a party defendant, or is not added as a party defendant or third party, or if the corporation has paid the damages before an action is brought to recover the same, or before a recovery thereof in an action against the corporation, the corporation shall have the remedy over, by action against such person, but he shall be deemed to admit the validity of the judgment obtained against the corporation, only where a notice has been served on him, pursuant to rules of court, or where he has admitted, or is estopped from denying the validity of such judgment.

Where person causing damage has not been made a party.

(5) Where such notice has not been served, and there has been no such admission or estoppel, and such person has not been made a party defendant or third party to the action

When a fresh action is necessary.

against the corporation, or where the damages have been paid without action, or without recovery of judgment against the corporation, the liability of the corporation for such damages, and the fact that the damages were sustained under such circumstances as to entitle the corporation to the remedy over, must be established in the action against such person to entitle the corporation to recover in the action. R.S.O. 1937, c. 266, s. 486.

Determina-
tion of dis-
putes as to
duty to erect
and main-
tain bridge
or repair
highway.

461. Whenever there is a dispute between the councils of any two or more corporations as to the corporation on which the obligation to build and maintain or to build or maintain a bridge or to keep in repair a highway rests, the Supreme Court may upon the application of any or either of the corporations determine the matter in dispute on an originating motion, or the court, if of opinion that the matter in dispute cannot satisfactorily be determined on an originating motion, or that for any other reason it ought not to be so determined, may direct that an action may be brought or that an issue be tried for the purpose of determining the matter in dispute, and the court may in either case compel by mandamus the performance of the obligation by the corporation upon which it is found to rest. R.S.O. 1937, c. 266, s. 487.

Disputes as
to apportion-
ment of cost
of erecting
or main-
taining.

462. Except in the cases provided for by section 465, where the dispute is as to the proportions in which the corporations should contribute to the cost of erecting and maintaining or of erecting or maintaining a bridge or of keeping in repair a highway, the matter in dispute shall be determined by arbitration. R.S.O. 1937, c. 266, s. 488.

Laying out
highway
where no
original
allowance.

463.—(1) Where an allowance for road was not reserved in the original survey on a township boundary or part of it, the councils of the townships may establish and lay out a highway on such boundary or part of it.

Passing
by-law for.

(2) The councils of any or either of the municipalities may pass a by-law for establishing and laying out such a highway and for acquiring the land requisite for the one-half of it which lies within the limits of its municipality.

Copy of by-
law to be
sent to
other town-
ships.

(3) The clerk shall within four days after the passing of the by-law transmit by registered post to the clerk of each of the other townships a copy of the by-law certified under his hand and the seal of the corporation to be a true copy.

Arbitration.

(4) If the other council or councils do not within six months after such notice pass a by-law or by-laws in similar terms, the council by which the by-law was passed may require the

question of establishing and laying out the proposed highway to be determined by arbitration.

(5) The arbitrator shall determine whether or not the proposed highway shall be established and laid out, and if he determines that it shall be established and laid out he shall also determine in what proportions the cost of the site of it shall be borne by each of the corporations. Power of arbitrator.

(6) If it is determined by the arbitrator that the proposed highway shall be established and laid out, the other councils shall forthwith after notice of the award pass the necessary by-laws for establishing and laying out the proposed highway and for acquiring the land requisite for the one-half of it which will lie within the limits of their respective municipalities, and for otherwise carrying out the provisions of the award, and shall proceed with all reasonable dispatch to carry into effect the provisions of the by-law. Duties of other townships when arbitrator determines that highway should be laid out.

(7) If it is determined by the arbitrator that the proposed highway shall not be established and laid out, no further proceedings shall be taken under this section within two years from the date of the award or within such time not exceeding in all four years, as the arbitrator may by his award determine. Effect of determination against laying out highway.
R.S.O. 1937, c. 266, s. 489.

464.—(1) Where a highway or bridge is under the joint jurisdiction of the councils of two or more municipalities and they are unable to agree as to any action which one or more of them desire to be taken in the exercise of such joint jurisdiction, any of them may require that the matter in dispute shall be determined by arbitration, and in that case shall prepare a draft by-law for carrying into effect what it is desired shall be done, and serve a copy of it on the clerk of the other municipalities with a notice that it is its desire that such a by-law shall be passed. Disputes as to bridge or highway to be settled by arbitration.

(2) If it is determined by the arbitrator that what is proposed ought to be done, he shall by his award so direct, and in that case each council shall forthwith after notice of the award pass a by-law in accordance with the draft by-law and shall, without unnecessary delay, do all things which on its part are necessary for carrying into effect the objects of the by-law. R.S.O. 1937, c. 266, s. 490. Award.

465.—(1) Where the councils of the townships having joint jurisdiction over a township boundary line fail to agree as to the character of the work to be done in opening, maintaining or repairing it, or as to the proportions in which the cost of the work is to be borne by the corporations of the town- Determination by county council of disputes as to opening or maintaining township boundary lines.

ships respectively, any or either of such councils may apply to the council of the county to determine the matters in dispute.

Enforcement
by county of
opening up
or repair on
petition of
ratepayers.

(2) Where the township councils having the joint jurisdiction over it neglect or refuse to open up and make, maintain and keep in repair any such boundary line, a majority of the ratepayers resident on land abutting on it may apply to the council of the county to enforce the opening up and the making, maintaining and keeping in repair of such boundary line.

What mat-
ters to be
determined
by county
council.

(3) The application shall be by petition and the council of the county after notice to all the corporations interested and after hearing them and the petitioning ratepayers, if the petition is by ratepayers, or such of them as desire to be heard, shall determine in the case provided for by subsection 1, what work shall be done and the proportions in which the cost of it shall be borne by the corporations of the townships respectively, and in the case provided for by subsection 2, whether the boundary line shall be opened up and the proportions in which the corporations of the townships shall respectively bear the cost of opening up, making, maintaining and keeping in repair the boundary line, and in either case may direct that the statute labour or part of it shall be applied by each of the corporations for such purposes.

Appointment
of commis-
sioners to
enforce
order.

(4) The determination and direction of the council of the county shall be embodied in an order or resolution, and the council shall appoint one or more commissioners to execute and enforce any direction so made.

Townships
to have op-
portunity of
doing the
work.

(5) If the councils of the townships intimate to the council of the county or to the commissioners their intention to proceed with the work directed to be done and to conform to the direction of the council of the county, the commissioners shall delay proceeding to carry out the work directed to be done for a reasonable time to enable the township councils to do it, but if the work is not proceeded with with such dispatch as the commissioners deem necessary they shall themselves complete the work.

Apportion-
ment of and
collection of
cost of work
of commis-
sioners.

(6) The cost of any work done by the commissioners shall be by them apportioned between the corporations of the townships in accordance with the order or resolution of the council of the county, and the commissioners shall certify to the treasurer of the county the amount payable by each of such corporations, and the treasurer shall retain the same out of any money in his hands belonging to the corporation, but if there is not in the hands of the treasurer any such money or not sufficient to pay the amount payable by the corporation, the amount payable or the amount of the deficiency, as the case may be, shall be added to the county rate payable by the corporation in default.

(7) This section shall not apply to a township boundary line which is also a county boundary line. R.S.O. 1937, c. 266, s. 491. County boundaries not affected.

466. Where the councils of the townships having joint jurisdiction over a county boundary line are unable to agree as to, Determination by Municipal Board of disputes re deviation of county boundary lines.

- (a) the necessity for a deviation of the road from the boundary line; or
- (b) the location of the deviation; or
- (c) the use of an existing highway in lieu of a deviation; or
- (d) the proportions in which the cost of opening, making and maintaining the deviation or the existing highway to be used in lieu of a deviation, is to be borne,

any of the councils may apply to the Municipal Board to determine the matter in dispute, and the Board or any member of it, after notice to the corporations interested and hearing such of them as desire to be heard, shall determine the matter in dispute and may make such order as may be deemed just, and such order shall be final and not subject to appeal. R.S.O. 1937, c. 266, s. 492.

467.—(1) The Ontario Motor League may, at its own expense and subject to such regulations as the council of the municipality may prescribe, erect and maintain guide posts at road intersections and mile posts on the highways to indicate distances and danger signals at hills which may be deemed to be dangerous or unsafe for travellers. Power of Ontario Motor League to erect guide and mile posts, etc.

(2) Every such guide post, mile post and danger signal shall be so placed as not to obstruct the highway or to endanger the safety of travellers, and nothing shall appear on or be affixed or attached to it but a notice indicating the purpose which the guide post, mile post or danger signal is designed to serve. How same to be erected.

(3) Every person who contravenes any of the provisions of subsection 2 shall be guilty of an offence and liable to a penalty of \$5 for every such contravention. Penalty.

(4) No person shall cut, throw down, injure or deface any such guide post, mile post or danger signal, and for every contravention of this subsection the person offending shall be guilty of an offence and liable to a penalty of not more than \$50. R.S.O. 1937, c. 266, s. 493. Defacing posts erected.

468. The Canadian Wheelman's Association of the Dominion of Canada shall have the like power as is conferred Powers of C.W.A. as to erection of guide posts, etc.

on the Ontario Motor League by section 467, and all the provisions of that section shall apply to guide posts, mile posts and danger signals erected or maintained by the Association; but where either the League or the Association has exercised the powers conferred upon it upon any part of a highway the other shall not have the right to exercise its powers thereon. R.S.O. 1937, c. 266, s. 494.

Establish-
ing, widen-
ing, stopping
up, etc.,
highways,
laying out
boulevards,
etc.

469.—(1) The council of every municipality may pass by-laws,

- (a) for establishing and laying out highways;
- (b) for widening, altering or diverting any highway or part of a highway; R.S.O. 1937, c. 266, s. 495 (1), cls. (a, b).
- (c) for stopping up any highway or part of a highway;
- (d) for leasing or selling the soil and freehold of a stopped-up highway or part of a highway; 1949, c. 61, s. 24.
- (e) for setting apart and laying out such parts as may be deemed expedient of any highway for the purpose of carriage ways, boulevards and sidewalks, and for beautifying the same, and making regulations for their protection;
- (f) for permitting subways for cattle under and bridges for cattle over any highway;
- (g) for acquiring land or an interest in land at street intersections for the purpose of rounding corners. R.S.O. 1937, c. 266, s. 495 (1), cls. (d-f).

Exceptions
as to exer-
cise of
power.

(2) Nothing in subsection 1 shall authorize a council to interfere with any public road or bridge vested in the Crown in right of Ontario or in any public department, board or officer of Ontario.

Approval of
Lieutenant-
Governor
to by-law.

(3) A by-law passed under clause *b* or clause *c* of subsection 1 in respect of an allowance for road reserved in the original survey along or leading to the bank of any river or stream or on the shore of any lake or other water shall not take effect until it has been approved by the Lieutenant-Governor in Council.

Approval of
Governor-
General
to by-law.

(4) The powers conferred by subsection 1 shall not be exercised without the consent of the Governor-General in Council in respect of,

- (a) any street, lane or thoroughfare made or laid out by His Majesty's Ordinance or the Principal Secretary

of State in whom the Ordinance estates became vested under the Act of the late Province of Canada passed in the 19th year of the reign of Her late Majesty Queen Victoria, Chapter 45, or under Chapter 24 of the Consolidated Statutes of Canada, or made or laid out by the Government of Canada;

- (b) any land owned by the Crown in right of Canada;
- (c) any bridge, wharf, dock, quay or other work vested in the Crown in right of Canada,

or so as to interfere with any land reserved for military purposes or with the integrity of the public defences, and the consent of the Governor-General in Council shall be recited in the by-law, but the by-law shall not be quashed or open to question because of the omission to recite it if the consent has been in fact given.

(5) The powers conferred by clause *c* of subsection 1 shall not be exercised by the council of a county in respect of a highway or part of a highway within the limits of a city, town or village in or adjoining the county. Limitation of power of county.

(6) A by-law of the council of a township, passed under clause *c* of subsection 1, in the case of a township in unorganized territory, shall not have any force until approved by a judge of the district court of the district in which the township is situated, and in other cases until confirmed by a by-law of the council of the county in which the township is situate passed at an ordinary meeting of the council held not sooner than three months or later than one year after the passing of the by-law of the council of the township. Approval of district judge or county council to township by-law.

(7) The council may in any by-law closing a highway provide that the same shall only be closed for vehicular traffic and not for pedestrian traffic or *vice versa*, and may provide for the erection of barricades to enforce the due observance thereof. R.S.O. 1937, c. 266, s. 495 (2-7). Closing of street to vehicular traffic only.

[NOTE.—See *The Highway Improvement Act, Rev. Stat. c. 166, as to consent of Lieutenant-Governor to closing of highway connecting with the King's Highway.*]

470.—(1) A by-law shall not be passed for stopping up, altering or diverting any highway or part of a highway if the effect of the by-law will be to deprive any person of the means of ingress and egress to and from his land or place of residence over such highway or part of it unless in addition to making compensation to such person, as provided by this Act, another convenient road or way of access to his land or place of residence is provided. Right of ingress and egress not to be taken away by closing road.

By-law,
when to take
effect.

(2) The by-law shall not take effect until the sufficiency of such road or way of access has been agreed upon or until, if not agreed upon, its sufficiency has been determined by arbitration as hereinafter mentioned.

Arbitration
to determine
sufficiency
of road.

(3) If such person disputes the sufficiency of the road or way of access provided, the sufficiency of it shall be determined by arbitration under this Act, and if the amount of compensation is also not agreed upon both matters shall be determined by one and the same arbitration.

By-law void
if road in-
sufficient.

(4) If the arbitrator determines that the road or way of access provided is insufficient he may by his award determine what road or way of access should be provided, and in that case, unless such last-mentioned road or way of access is provided, the by-law shall be void and the corporation shall pay the costs of the arbitration and award. R.S.O. 1937, c. 266, s. 496.

Possession
of unopened
road allow-
ance.

471.—(1) A person in possession of and having enclosed with a lawful fence that part of an original allowance for road upon which his land abuts which has not been opened for public use by reason of another road being used in lieu of it or of another road parallel or near to it having been established by law in lieu of it shall as against every person except the corporation the council of which has jurisdiction over the allowance for road, be deemed to be legally possessed of such part until a by-law has been passed by such council for opening it.

Notice of
by-law to
be given.

(2) No such by-law shall be passed until notice in writing of the intention to pass it has been given to the person in possession, at least eight days before the meeting of the council at which the by-law is to be taken into consideration. R.S.O. 1937, c. 266, s. 497.

Publication
of by-law,
etc.

472.—(1) Before passing a by-law for stopping up, altering, widening, diverting, selling or leasing a highway or for establishing or laying out a highway,

(a) notice of the proposed by-law shall be published at least once a week for four successive weeks, and in the case of a village or township shall be posted up for at least one month in six of the most public places in the immediate neighbourhood of the highway or proposed highway; and

(b) the council shall hear in person or by his counsel, solicitor or agent any person who claims that his land will be prejudicially affected by the by-law and who applies to be heard.

(2) The clerk shall give the notices upon payment by the applicant, if any, for the by-law, of the reasonable expenses to be incurred in so doing. R.S.O. 1937, c. 266, s. 498. Notices.

473. Where the owners of and other persons interested in the land required to be taken for the highway consent in writing to the passing of the by-law for establishing and laying it out, or where such land has been acquired by the corporation, section 472 shall not apply to the by-law. R.S.O. 1937, c. 266, s. 499. When publication of by-law not required.

474.—(1) Where an allowance for a sideline road between lots in a double front concession in a township was so run in the original survey that the line in the front half of the concession does not meet the line in the rear half, the council of the township may open and lay out a road to connect the ends of such lines where they do not so meet. Side lines in double front concessions.

(2) The by-law shall provide that the road shall be opened and laid out in accordance with a survey to be made by an Ontario land surveyor named in the by-law. Term of by-law.

(3) A judge of the county or district court of the county or district in which the township is situate, on the application of any person, over whose land the connecting road will pass, who objects to the surveyor appointed by the by-law, may appoint another Ontario land surveyor in the place of the one so appointed. Appointment of another surveyor by judge.

(4) The application shall be made within one month after the service of the copy of the by-law on the applicant and at least five days notice of the time when and the place where it will be heard by the judge shall be served upon every other person over whose land the connecting road will pass and upon the clerk of the municipality. Application for appointment.

(5) The surveyor appointed by the by-law, or, if another is appointed by the judge in his place, the surveyor so appointed shall determine the compensation to be paid to the persons whose lands are taken for the connecting road, and the amount so determined shall be paid to them by the corporation of the township. Compensation, determination as to.

(6) The determination of the surveyor as to the compensation shall be final. R.S.O. 1937, c. 266, s. 500. Determination final.

475.—(1) Where the council of a municipality desiring to open an original allowance for road has by mistake opened a road which was intended to be, but is not wholly or partly, upon such allowance, the land occupied by the road as so opened shall be deemed to have been expropriated under a by- Mistakes in opening road allowances.

law of the corporation, and no person on whose land such road or any part of it was opened shall be entitled to bring or maintain an action for or in respect of what was done or to recover possession of his land, but he shall be entitled to compensation under and in accordance with the provisions of this Act as for land expropriated under the powers conferred by this Act.

When right
to com-
pensation
barred.

(2) The right to compensation shall be forever barred if the compensation is not claimed within one year after the land was first taken possession of by the corporation. R.S.O. 1937, c. 266, s. 501.

Sanction
of council
to laying
out of high-
ways.

476.—(1) No highway shall be laid out in any municipality without the sanction of the council of the municipality.

Width of
highways.

(2) No highway less than 66 feet in width or, except in a city or town, more than 100 feet in width, shall be laid out by the council of the municipality without the approval of the Municipal Board or by any owner of land without the approval of the council of the municipality and of the Municipal Board. R.S.O. 1937, c. 266, s. 502 (1, 2).

Proviso.
Rev. Stat.,
c. 277.

(3) Nothing in this section shall affect the provisions of *The Planning Act*. 1949, c. 61, s. 25.

Assent of
council or
judge
required.

(4) Subsection 2 shall not apply to a township in unorganized territory, and a highway less than 66 feet in width may be laid by the council of any such township subject to and in accordance with the regulations of the Department of Lands and Forests.

Exception
as to lane.

(5) It is hereby declared that subsection 2 does not apply, and has never applied to any lane laid out in the rear of lands abutting on another highway or to any outlet connecting such a lane with a highway. R.S.O. 1937, c. 266, s. 502 (4, 5).

Agreement
for removal
of obstruc-
tions to view
of drivers.

477.—(1) The council of any municipality may enter into an agreement with the owner of land adjacent to the intersection of any two highways under the jurisdiction of the council for the removal or alteration of any tree, shrub, bush, hedge, fence, signboard or other object on the land which may obstruct the view of drivers of vehicles or pedestrians on the highway when approaching the intersection.

Application
to judge
for order.

(2) If the council is unable to make an agreement as provided in subsection 1, it may apply to the judge of the county court of the county in which the land is situate for an order compelling the removal or alteration of any object in respect of which the application is made, upon such notice to the owner of the land affected as the judge may direct, and the judge may make an order, subject to the payment of such compensa-

tion or upon such other conditions as he may fix, compelling the owner of the land to remove or alter the object, or authorizing the municipal corporation to remove or alter the same and for that purpose to enter upon the land, and *The Judges' Orders Enforcement Act* shall apply to such an order. *Rev. Stat., c. 189.* R.S.O. 1937, c. 266, s. 503.

478.—(1) By-laws may be passed:

1. By the council of every municipality for granting aid to the corporation of any immediately adjoining municipality towards opening, widening, maintaining or improving any highway within such municipality, or constructing, maintaining or improving any bridge therein. Granting aid for opening or improving, etc., highways.
2. By the council of every local municipality for granting aid to the corporation of the county in which the municipality is situate towards opening and making any new road on the boundary of the municipality or constructing any new bridge on such boundary line. By local municipalities to county.
3. By the councils of cities, towns and villages for granting aid to the corporation of a township in the county in which the city, town or village is territorially situate or in an adjoining county towards opening, widening, maintaining or improving any highway in such township which constitutes or is to constitute or forms or is to form part of a highway leading to such city, town or village, or towards constructing, maintaining or improving any bridge forming or which is to form part of such highway. By cities, towns and villages to township.
4. By the councils of counties for granting aid towards making, improving or maintaining any county or township boundary line. By counties for boundary lines.
5. By the councils of counties for granting aid to the corporation of any town, village or township towards, By counties to towns, villages and townships.
 - (a) opening any new highway or constructing any new bridge in the municipality;
 - (b) opening, widening, maintaining or otherwise improving any highway leading from or passing through the municipality into a county road, or constructing, maintaining or improving any bridge forming or which is to form part of such highway.
6. By the councils of townships, By townships to county.
 - (a) for granting aid to the corporation of a county adjoining that in which the township is situate towards opening, widening, maintaining or improving any highway lying between the township and another

municipality in the adjoining county, or towards constructing, maintaining or improving any bridge on such highway;

- (b) for granting aid for the like purposes to the corporation of the county in which the township is situate in respect of any highway or bridge within the township assumed as a county road or bridge or agreed to be so assumed on condition that such aid shall be granted.

By townships in unorganized territory.

7. By the council of a township in unorganized territory for opening, widening, maintaining or improving any highway or constructing, maintaining or improving any bridge in an adjoining municipality or in a municipality situate in such adjoining municipality or in an adjoining unorganized township or in adjoining unsurveyed territory or for granting aid to any adjoining municipality or to any municipality situate in such adjoining municipality for any of such purposes.

Character of aid.

(2) The aid may be granted by way of loan or otherwise. R.S.O. 1937, c. 266, s. 506.

479. By-laws may be passed by the council of every municipality:

Boulevards.

1. For setting apart portions of the highways at or near the sides of them for the purpose of boulevards, and for permitting the owners of land abutting on a highway to construct, make and maintain at their own expense boulevards on that part of the highway which may be set apart for that purpose, but not so as unreasonably to confine, impede or incommode public traffic.

Regulations.

2. For regulating the construction, maintenance and protection of such boulevards. R.S.O. 1937, c. 266, s. 507, pars. 1, 2.

Areas and openings under highways.

3. For permitting the owners of land to make, maintain and use areas under and openings to them in the highways and sidewalks and for permitting the owners of land abutting on one side of a highway to construct, maintain and use a bridge or other structure over, across or under the highway for the purpose of access to land owned by such owners on the other side of the highway, and for permitting the owners of land to maintain and use signs and other advertising devices which project over the sidewalks, and canopies which project over the sidewalks, for prescribing the terms and conditions upon which the same shall be made, constructed, maintained and used, and for making such annual or other charge for the privilege conferred by the by-law as the council may deem reasonable, and for providing that upon the termination of such privilege the highway shall be restored to its former condition at the expense of the owner of the land to which the privilege is appurtenant.

ant by filling in the area or opening, removing the bridge, structure, sign or other advertising device, or canopy, or otherwise as may be required by the by-law.

- (a) Such annual or other charge and any expense incurred by the corporation in restoring the highway to its former condition shall be payable and payment of it may be enforced in like manner as taxes are payable and payment of them may be enforced. Annual charge for.

- (b) The corporation shall be liable for any want of repair of the highway which may result from the construction, maintenance and use of any such area or opening, bridge or structure, sign or advertising device, or canopy, but shall be entitled to the remedy over provided for by section 460 against the person by whose act or omission the want of repair is caused. Liability of corporation for damages.
R.S.O. 1937, c. 266, s. 507, par. 3; 1948, c. 59, s. 24.

4. For setting apart so much of any highway as the council may deem necessary for the purposes of a bicycle path or of a foot path. Bicycle and foot paths.

- (a) Any person who rides or drives a horse or other beast of burden or a motor vehicle, wagon, carriage or cart over or along any such path shall be guilty of an offence and liable to a penalty of not less than \$1 and not more than \$20. R.S.O. 1937, c. 266, s. 507, par. 4.

5. For preserving or selling the timber or trees on any original allowance for road, subject however to the rights, if any, of a Crown timber licensee under *The Crown Timber Act* and, in the case of an unopened original allowance for road, subject also to the approval of the Minister of Lands and Forests. 1950, c. 46, s. 21. Timber on road allowances. Rev. Stat., c. 82.

6. For making regulations as to pits, precipices and deep waters and other places dangerous to travellers. R.S.O. 1937, c. 266, s. 507, par. 6. Regulations re pits, precipices, etc.

7. For acquiring either alone or jointly with the corporation of another municipality such land in either municipality as may be deemed necessary for procuring therefrom stone or gravel for use in making, maintaining or repairing the highways under the jurisdiction of the council or councils, or for any other purpose. R.S.O. 1937, c. 266, s. 507, par. 7; 1946, c. 60, s. 66 (1). Stone and gravel pits.

8. For entering upon and searching for and taking from land within the municipality, or with the consent of the council of an adjacent municipality expressed by by-law or resolution from land in such municipality, such timber, gravel, stone or other material as may be necessary for constructing, maintain- Power to enter upon land to take timber, gravel, etc.

ing and keeping in repair the highways and bridges, or for any other purpose.

Compensation, how determined.

- (a) The compensation to be paid to the owners of and other persons interested in the land for the timber, gravel, stone or other material shall be agreed upon or determined by arbitration before the power to take it is exercised.

Idem, how computed.

- (b) The compensation may be a lump sum for the privilege of taking as much timber, stone, gravel or other material as may be required, or a sum determined by the quantity taken, or a price by the cubic yard or otherwise for what may be taken, as may be agreed on or be determined by the arbitrator.

Right to pass over lands.

- (c) Where it is necessary in the exercise of any of the powers conferred by the by-law to pass through or over the land of another person, the corporation may do so as occasion may require, doing no unnecessary damage, but before doing so, the compensation to be paid for the exercise of such power shall be agreed upon or determined by arbitration. R.S.O. 1937, c. 266, s. 507, par. 8; 1946, c. 60, s. 66 (2).

Purchasing or renting road-making machinery.

480.—(1) The council of every municipality may pass by-laws for purchasing conditionally, or otherwise, or for renting for a term of years or otherwise, road-making machinery and appliances for the purposes of the corporation, and for borrowing money for the purpose of paying the purchase price for any period not exceeding five years and for issuing debentures for the money so borrowed, or for issuing to the vendor debentures payable within that period in payment of the purchase money.

Debentures.

(2) The debentures issued under this section shall be on the instalment plan. R.S.O. 1937, c. 266, s. 508.

Taking stock in bridge company.

481. The council of every municipality may pass by-laws for subscribing for any number of shares in the capital stock of or for lending money to or guaranteeing the payment of any money borrowed by a bridge company incorporated for the purpose of erecting and maintaining any bridge within, or partly within, the municipality or between it and another municipality. R.S.O. 1937, c. 266, s. 509.

Joint works with other municipalities.

482. The council of a local municipality may pass by-laws for entering into and performing any agreement with any other council in the same county for executing, at their joint expense and for their joint benefit, any work within the jurisdiction of the council. R.S.O. 1937, c. 266, s. 510.

TREES ON HIGHWAYS

483.—(1) In this section, “tree” includes a growing tree, ^{Interpre-} or shrub planted or left growing on either side of a highway ^{tation.} for the purpose of shade or ornament.

(2) Any person may plant trees on a highway with the ap- ^{Planting.} proval of the council of the municipality expressed by resolution.

(3) Every tree upon a highway shall be appurtenant to the ^{Land to} land adjacent to the highway and nearest thereto. ^{which appur-} ^{tenant.}

(4) The council of every municipality may pass by-laws, ^{By-laws.}

(a) authorizing and regulating the planting of shade or ornamental trees upon any highway;

(b) granting money to be expended for such purpose;

(c) granting money by way of bonus not exceeding 25 cents each for planting on any highway or within six feet thereof ash, basswood, beech, birch, butternut, cedar, cherry, chestnut, elm, hickory, maple, oak, pine, sassafras, spruce, walnut or whitewood trees, such bonus to be payable at the expiration of three years from date of planting if the trees are then alive, healthy and in good form;

(d) for preserving trees;

(e) for prohibiting the injuring or destroying of trees;

(f) for causing any tree planted upon a highway to be removed when deemed necessary in the public interest but the owner of the tree shall be given 10 days notice of the intention of the council to remove such tree and be recompensed for his trouble in planting and protecting it, and if he so desires shall be entitled to remove the tree himself, but shall not be entitled to any further or other compensation;

(g) prohibiting the planting of any species of tree which the council deem unsuited for that purpose and for the removal without notice of such trees growing on a highway or planted thereon contrary to the provisions of any such by-law;

(h) authorizing any officer or committee of the council to supervise the planting of trees upon the highways and the trimming of trees planted upon a highway or upon private property where the branches extend over a highway, or to remove decayed or dangerous trees or trees which have by by-law of the municipality been directed to be removed.

Service of
notices.

(5) Any notice required by subsection 4 may be given by leaving it with a grown-up person residing on the land or if the land is unoccupied by posting it in a conspicuous place on the land.

Consent
required to
removal, etc.

(6) Except with the authority of the council or a committee or officer thereof appointed as aforesaid, no person shall remove or cut down or injure any tree growing upon a highway.

Prohibition
as to tying
animals, etc.

(7) Any person who ties or fastens any animal to, or injures or destroys a tree growing upon a highway or who suffers or permits any animal in his charge to injure or destroy such tree or who cuts down or removes any such tree contrary to the provisions of this section shall be guilty of an offence and liable to a penalty of not more than \$25, one-half of which shall go to the person laying the information, and the other half to the corporation of the municipality within which the tree was growing. R.S.O. 1937, c. 266, s. 511.

Expenditure
for works in
any county
of a union.

484.—(1) The councils of united counties may pass by-laws for raising or borrowing money to be expended exclusively in any one of the counties forming the union.

What mem-
bers to vote
on by-law.

(2) None of the members of the council but those representing local municipalities in the county in which the expenditure is to be made shall vote upon the by-law except in the case of an equality of votes, when the warden shall have the casting vote.

What prop-
erty assess-
able for
rates.

(3) The sums to be raised by taxation for the purpose of making any such expenditure and the sums required to be raised to pay the principal and interest of any money borrowed for that purpose shall be assessed and levied only upon the rateable property in the county in which the expenditure is to be made.

Debentures,
issue of.

(4) Every debenture issued under the authority of the by-law shall be issued as the debenture of the corporation of the united counties, but it shall be stated in the body of it that the payment of the principal and interest is to be provided for by a special rate upon the rateable property in the county in which the expenditure is to be made and upon that property only. R.S.O. 1937, c. 266, s. 512.

Prizes for
best kept
roadside,
etc.

485. The council of a township may pass by-laws for granting a prize not exceeding \$10 for the best kept roadside, farm front and farm house surroundings, in each public school section in the township, and for prescribing the conditions upon which such prizes may be competed for and awarded. R.S.O. 1937, c. 266, s. 513.

486. The councils of all municipalities may pass by-laws:

1. For prohibiting or regulating the obstructing, encumber-
ing, injuring or fouling of highways or bridges. Obstruction
of highways.

2. For requiring doorsteps, porches or other erections or
things projecting into or over any highway to be removed by
the owner or occupant of the land in connection with which
they exist. Removal of
doorsteps,
etc.

3. For prohibiting the building or maintaining of fences on
any highway or the placing or depositing of firewood or any
other thing calculated to obstruct it or to obstruct or interfere
with public travel on it, on any highway or bridge, and for
requiring the removal of them by the person by whom the
same are or were so built, maintained, placed or deposited. Prohibiting
building or
maintaining
fences on
highways.

(a) Unless the by-law otherwise provides, a by-law
passed under the authority of this paragraph shall
not extend or apply to a worm fence which is not for
more than half its width upon the highway, or to
materials to be used for the construction or repair of
a highway or bridge, if they do not interfere with the
use of it for public travel. Worm
fences.

4. For prohibiting the throwing, placing or depositing of
dirt, filth, glass, handbills, paper or other rubbish or refuse, or
the carcass of any animal, on any highway or bridge. Prohibiting
throwing
dirt, glass,
etc., on
highways.

5. For prohibiting the obstruction of ditches or culverts
upon highways. Ditches and
culverts.

6. To provide for placing, regulating and maintaining upon
the public highways traffic signs for the purpose of guiding and
directing traffic; provided that no by-law shall authorize the
placing of such signs upon that portion of any highway which
lies between the double tracks of a street railway constructed
upon such highway known as the devil strip. Traffic signs.

7. For erecting, maintaining and operating, or granting to
any person for such period of time, not exceeding five years,
and upon such terms and conditions as the council may deem
expedient, the exclusive right for erecting, maintaining and
operating on any highway or portion of a highway automatic or
other mechanical meters or devices, with the necessary stand-
ards for the same, for the purpose of controlling and regulating
the parking of any vehicle on the highway and measuring and
recording the duration of such parking, for requiring drivers
of every vehicle parked on such highways to make use of the
said meters or devices, and to pay for parking such vehicle on
the highway a fee according to the amount or scale prescribed
by the by-law and as measured by the meter or device, and for
Installation
of meters for
controlling
parking of
vehicles on
highways,
and charging
of fees for
parking.

prohibiting parking of vehicles on such highway or portion of a highway unless such meter or device is made use of and such fee is paid, and for limiting the right of parking of vehicles on such highway to such drivers as do make use of the said meters or devices and pay the said fees.

Rev. Stat.,
c. 249, not
applicable.

(a) It shall not be necessary for the council to comply with any requirement of *The Municipal Franchises Act* in granting to any person the right to erect, maintain and operate the said meters or devices.

Limitation
of actions
except for
negligence.

(b) The corporation, or a person to whom the right is granted, shall not, except in case of negligence, be liable for personal injury or for damage by reason of the erection, maintenance or operation of the said meters or devices with the necessary standards for the same under the authority of a by-law passed under this paragraph, or by reason of a vehicle being parked on the highway under the terms of such by-law. R.S.O. 1937, c. 266, s. 514.

Selling
original road
allowance.

487.—(1) Where a highway for the site of which compensation was paid is established and laid out in place of the whole or any part of an original allowance for road, or where the whole or any part of a highway is legally stopped up, if the council determines to sell such original allowance or such stopped-up highway, the price at which it is to be sold shall be fixed by the council, and the owner of the land which abuts on it shall have the right to purchase the soil and freehold of it at that price.

Prior right
of owners
of abutting
lands.

(2) Where there are more owners than one, each shall have the right to purchase that part of it upon which his land abuts to the middle line of the stopped-up highway.

Sale by
council to
other
persons.

(3) If the owner does not exercise his right to purchase within such period as may be fixed by the by-law or by a subsequent by-law, the council may sell the part which he has the right to purchase to any other person at the same or a greater price. R.S.O. 1937, c. 266, s. 515.

Where
owner of
land taken
for highway
entitled to
original
road allow-
ance.

488.—(1) Where a highway for the site of which compensation was not paid has been laid out and opened in the place of the whole or any part of an original allowance for road, the owner of the land appropriated for the highway or his successor in title, if he owns the land which abuts on such allowance, shall be entitled to the soil and freehold of it, and if it has not already been conveyed to him or his predecessor in title, to a conveyance of it.

When more
than one
owner.

(2) Where the land which so abuts is owned by more persons than one, each shall be entitled to and to a conveyance of

the soil and freehold of that part of the allowance upon which his land abuts to the middle line of the allowance.

(3) If the owner of the land appropriated for the highway or his successor in title does not own any land abutting on the allowance and the allowance is sold by the council, he shall be entitled to a part of the purchase money which bears the same proportion to the whole purchase money as the value of the part of the site of the new highway which belonged to him bears to the value of the whole site. R.S.O. 1937, c. 266, s. 516.

Where owner of land taken owns no land abutting on allowance.

489.—(1) A person in possession of the whole or any part of an original allowance for road in place of which he or any of his predecessors in title has laid out and opened a new road or street without receiving compensation for the site of it, shall be entitled to the soil and freehold of such allowance or part of it, and if it has not already been conveyed to him or to his predecessor in title, to a conveyance of it.

When person in possession entitled to original allowance.

(2) Where there are more persons than one in such possession, each shall be entitled to and to a conveyance of the soil and freehold of that part of the allowance upon which his land abuts to the middle line of the allowance.

Where several persons in possession.

(3) If the road has not been adopted by by-law of the council or otherwise assumed for public use by the corporation, this section shall not apply until the new road or street is adopted by by-law of the council, and the council by by-law declares that the original allowance is, in its opinion, useless to the public. R.S.O. 1937, c. 266, s. 517.

Requirement as to assumption of road by corporation.

490. The Lieutenant-Governor in Council may stop up, alter, widen or divert any highway or part of a highway in a provisional judicial district not being within an organized municipality, and may sell or lease the soil and freehold of any such highway or part of a highway which he has stopped up or which in consequence of an alteration or diversion of it no longer forms part of the highway as altered or diverted. R.S.O. 1937, c. 266, s. 518.

Stopping up highways in unorganized territory.

491.—(1) The council of a township in unorganized territory surveyed without road allowances, but in which five per cent of the area is reserved for highways, may pass by-laws for opening and making highways where necessary and the provisions of this Act as to compensation for lands taken or injuriously affected by the exercise of the powers conferred by this section shall not apply.

Opening up highways where five per cent reserved.

(2) In cases of deviations from road allowances and of roads laid out where there are no road allowances as provided

Filing plan of roads in Department of Lands and Forests.

in subsection 1, the corporation shall cause a plan thereof, so far as it affects ungranted lands of the Crown to be made by an Ontario land surveyor and shall file the plan in the Department of Lands and Forests. R.S.O. 1937, c. 266, s. 519.

PART XXI

PENALTIES AND ENFORCEMENT OF BY-LAWS

Power to
impose
penalties.

492.—(1) By-laws may be passed by the councils of all municipalities and by boards of commissioners of police for imposing penalties of not more than \$50, exclusive of costs, upon every person who contravenes any by-law of the council or of the board passed under the authority of this Act.

Recovery.
Rev. Stat.,
c. 379.

(2) Every such penalty shall be recoverable under *The Summary Convictions Act*, all the provisions of which shall apply, except that the imprisonment may be for a term of not more than six months for the breach of a by-law of the council or the board of commissioners of police of a city, and in all other cases for a term of not more than 21 days. R.S.O. 1937, c. 266, s. 520.

Prosecutions.

493. Except where otherwise expressly provided, the penalties imposed by or under the authority of this Act shall be recoverable under *The Summary Convictions Act*, but prosecutions for offences against section 150, 154, 198 or 200 shall be heard and determined by a magistrate or two justices of the peace. R.S.O. 1937, c. 266, s. 521.

Application
of penalties.

494. Where a prosecution is brought by a peace officer or employee of the corporation or of the local board of health, the whole of the penalty shall belong to the corporation, and in other cases shall belong one-half to the corporation and the other one-half to the prosecutor. R.S.O. 1937, c. 266, s. 522.

Convictions
not invali-
dated for
want of
proof of
by-law.

495.—(1) A conviction for a contravention of any by-law shall not be quashed for want of proof of the by-law before the convicting justice, but the court or a judge hearing the motion to quash may dispense with such proof or may permit the by-law to be proved by affidavit or in such other manner as may be deemed proper.

Requirement
as to proof.

(2) Nothing in this section shall relieve a prosecutor from the duty of proving the by-law or entitle the justice to dispense with such proof. R.S.O. 1937, c. 266, s. 523.

Enforcing
performance
of things re-
quired to be
done under
by-laws.

496. Where a council has authority to direct or require by by-law or otherwise that any matter or thing be done, the

council may by the same or by another by-law direct that in default of its being done by the person directed or required to do it, such matter or thing shall be done at his expense, and the corporation may recover the expense incurred in doing it by action, or the same may be recovered in like manner as municipal taxes, or the council may provide that the expense incurred by it, with interest, shall be payable by such person in annual instalments not exceeding 10 years and may, without obtaining the assent of the electors, borrow money to cover such expense by the issue of debentures of the corporation payable in not more than 10 years. R.S.O. 1937, c. 266, s. 524.

497. Where any by-law of a municipality or of a local board thereof, passed under the authority of this or any other general or special Act, is contravened, in addition to any other remedy and to any penalty imposed by the by-law, such contravention may be restrained by action at the instance of a ratepayer or the corporation or local board. 1948, c. 59, s. 25.

Power to
restrain
by action.

PART XXII

POLICE VILLAGES

FORMATION

498.—(1) Subject to the provisions and conditions hereinafter mentioned, a locality may be erected into a police village by the council of the county in which it is situate, or if it comprises parts of two or more counties by the council of the county in which the larger or largest part of the locality is situate.

Formation
of police
village.

(2) Where a petition signed by a majority of the owners of the locality whose names are entered on the last revised assessment roll and by a sufficient number of the resident tenants of the locality whose names are entered on such roll to make up with such owners a majority of the whole number of owners and tenants whose names are so entered, praying for the erection of the locality into a police village, is presented to the council, the council, if the locality has a population of not less than 150 and an area of not more than 500 acres, may pass a by-law erecting the locality into a police village to take effect from a day to be named in the by-law, declaring the name which the police village shall bear and its boundaries, fixing a time and place and naming the returning officer for holding the first election of trustees and fixing a time and place for the first meeting of trustees.

Petition of
freeholders
and tenants
required.

By-law
erecting
village and
fixing date
of first elec-
tion, etc.

(3) Where a petition has been presented as provided by subsection 2 and is sufficiently signed, and the council of the

Power of
Municipal
Board to
erect police
village on
failure of
county.

county does not at its next meeting after the presentation of the petition pass a by-law erecting the police village, application may be made to the Municipal Board for an order erecting the locality described in the petition into a police village, and the Board upon being satisfied that the petition has been duly signed and presented to the council, and that the council has neglected to act, and that the locality contains a population of not less than 150 and has an area of not more than 500 acres, and that the convenience of the inhabitants of the locality requires the erection of the police village, may make an order erecting the locality into a police village to take effect at a date to be named therein, declaring the name the police village shall bear and its boundaries, fixing the time and place and naming the returning officer for holding the first election of trustees and fixing the time and place for the first meeting of trustees. R.S.O. 1937, c. 266, s. 526.

Annexation
of territory
to police
village.

499.—(1) When the population of a police village exceeds 500, the council of the county by which it was established may, on petition of two-thirds of the owners and tenants of the police village, whose names are entered upon the last revised assessment roll, and of the majority of the resident owners and tenants of the territory proposed to be added, whose names are entered on the last revised assessment roll of the municipality, may by by-law increase the area of the village by adding to it any adjoining land, but not exceeding 20 acres for each additional 100 of its population over 500.

Extension
of limits
of police
village.

(2) In the case of a police village having a population of less than 500 and an area of less than 500 acres, the council of the county, on petition as required by subsection 1, may by by-law increase the area of such village by adding to it any adjoining land so that the total area shall not exceed 500 acres.

Land in
other county

(3) Land in another county shall not be included in the increased area without the consent of the council of that county.

Power of
Municipal
Board to
increase
area on
failure of
county to
act.

(4) Where a petition has been presented to increase the area of a police village as provided in subsection 1 or 2 and is sufficiently signed and the council of the county does not at its next meeting after the presentation of the petition pass a by-law increasing the area of the police village, application may be made to the Municipal Board for an order increasing the area as requested in the petition and the Board, upon being satisfied that the petition has been duly signed and presented to the council and that the council has failed to act, may make an order increasing the area of the police village by adding to it any adjoining land as described in the said petition, provided, however, that the addition does not exceed the limitation as set out in subsections 1 and 2, respectively,

or include land in another county if the consent of the council of that county has not been obtained. R.S.O. 1937, c. 266, s. 527.

500. Subsections 2, 3, 5, 6 and 9 of section 12 shall apply to the proceedings under sections 498 and 499 and the population of the locality shall be determined in case of dispute in such manner and by such means as the council shall determine. R.S.O. 1937, c. 266, s. 528.

Application of proceedings as to incorporation of village.

FORMATION IN PROVISIONAL JUDICIAL DISTRICTS

501.—(1) A locality in an organized township or in two or more adjoining organized townships in a provisional judicial district may be erected into a police village by order of the Municipal Board.

Erection of police villages in provisional judicial districts.

(2) The order may be made by the Board on receipt of a petition signed by a majority of the owners of the locality whose names are entered on the last revised assessment roll, and by a sufficient number of the resident tenants of the locality whose names are entered on such roll to make up with such owners a majority of the whole number of owners and tenants whose names are so entered.

Order of Board on receipt of petition.

(3) No police village shall be erected under this section unless the locality described in the petition contains a population of not less than 150 and has an area of not more than 500 acres, but the Board may increase the area of such village in the like manner and under the same circumstances as set out in section 499 in the case of a police village situated in a county, and section 499 shall *mutatis mutandis* apply to proceedings under this section.

Area of police villages in provisional judicial district.

(4) All the provisions of this Act with regard to police villages in counties shall, so far as practicable, apply to a police village erected in a provisional judicial district. R.S.O. 1937, c. 266, s. 529.

Provisions of Act re police villages in counties to apply.

TRUSTEES—ELECTION OF, ETC.

502.—(1) There shall be three trustees for every police village.

Trustees, number of.

(2) The trustees may contract and may sue and be sued, and may pass by-laws by and in the name of the trustees of the police village of (*naming it*), but they shall not be personally liable upon their contracts. R.S.O. 1937, c. 266, s. 530.

General powers.

Application
of provisions
as to elec-
tion, etc., of
township
councillors.

503.—(1) Except where other provision is made in this Part and except as provided by subsections 2 to 6, the provisions of Parts II, III and IV, which are applicable to councillors of townships, shall apply *mutatis mutandis* to trustees of police villages.

Returning
officer,
nomination
and polling.

(2) The trustees shall appoint the returning officer and the place within the village for holding the nomination and for the polling of every election except the first.

Duty of
clerk of
township as
to preparing
voters' list.

(3) The clerk of every township, a part of which is comprised in the village, not later than the day before that on which the polling is to take place, shall deliver to the returning officer of the village a copy of so much of the voters' list as relates to the village, attested by his declaration in writing as a true copy thereof.

Return of
ballot box.

(4) The return of the ballot box provided for by section 134 shall be made,

- (a) where the village lies wholly within the township, to the clerk of that township;
- (b) where the village comprises parts of two or more townships in the same county, to the clerk of that county;
- (c) where the village comprises parts of two or more townships in different counties, to the clerk of the county in which the larger or largest part of the village is situate.

Duties of
clerk on
receiving
ballot box.

(5) The clerk to whom the ballot box is returned shall perform the duties which under sections 138 and 139 are to be performed by the clerk of a municipality.

Qualification
of trustee.

(6) No person shall be qualified to be elected a trustee unless he has the prescribed qualification in respect of land situate in the village and resides in or within two miles of the village.

Qualification
of elector.

(7) No person shall be qualified to vote at an election of trustees unless he has the prescribed qualification in the village.

First meet-
ing of
trustees.

(8) The first meeting of the trustees after the annual election shall be held at noon on the third Monday in January, or on some day thereafter at noon. R.S.O. 1937, c. 266, s. 531; 1939, c. 30, s. 34.

Vacancies,
how filled.

504. If a vacancy occurs in the office of trustee, the remaining trustees or trustee shall appoint, by writing, a trustee to fill the vacancy. R.S.O. 1937, c. 266, s. 532.

505. Any trustee may, subject to the approval of the Department, be paid such annual or other remuneration as the trustees may determine. 1940, c. 18, s. 16.

506.—(1) The trustees shall, by writing, appoint one of their number to be inspecting trustee.

(2) Forthwith after the making of an appointment under subsection 1 or under section 504, the writing by which the appointment is made shall be filed with the clerk to whom the ballot box is to be returned as provided by subsection 4 of section 503. R.S.O. 1937, c. 266, s. 533.

507.—(1) The trustees may at any time before the 1st day of June in any year by a requisition in writing require the council of the township in which the village is situate to cause to be levied, along with the other rates upon the rateable property in the village, such sum as the trustees deem necessary to defray the expenditure of the trustees for the current year.

(2) Where the village comprises parts of two or more townships, the requisition shall be made on the council of each township for its proportion of the whole amount to be levied as ascertained in the manner provided by section 508.

(3) The amount which the trustees may require to be so levied shall not in any year exceed a sum which a rate of one and one-half cents in the dollar in the case of a police village in a township or townships in which statute labour has been abolished, and in other cases one cent in the dollar, on the rateable property in the village will provide, but this shall not apply to a rate imposed or to be levied under section 513, 514 or 516. R.S.O. 1937, c. 266, s. 534.

508.—(1) Where a village comprises parts of two or more townships, the proportion of the amount required to be levied in each township shall be determined by the assessors of the townships.

(2) Where a police village is hereafter erected, the assessors shall meet forthwith after the election for the purpose of determining and shall determine the proportion to be levied in each township.

(3) Thereafter and in the case of all other police villages, the meeting shall be held in every second year.

(4) Except in the case of a newly erected police village, the two years shall be reckoned from the respective times when the last determination was made by the assessors.

Determina-
tion when
assessors
differ.

(5) If the assessors differ, notice of the fact shall be forthwith given to the inspecting trustee, who shall act with the assessors in determining the proportions, and the decision of a majority shall be final and conclusive.

Notice of
determina-
tion to be
given to
clerk of
township.

(6) The determination of the assessor or of the assessors and the inspecting trustee shall be forthwith communicated to the clerk of each of the townships.

Who to call
meeting of
assessors.

(7) The meeting of the assessors shall be called by the assessor of the township in which is situate the larger or largest part of the rateable property of the village.

How long
determina-
tion to
govern.

(8) The proportions as determined under this section shall govern until the next determination is to be made as provided by subsection 3. R.S.O. 1937, c. 266, s. 535.

Reduction
of township
rates, deter-
mination of.

509.—(1) The ratepayers of the village shall be entitled to such deduction from the township rate payable by them as may be agreed on between the trustees and the council of the township, or if the village comprises parts of two or more townships, by the councils of the respective townships, or if they are unable to agree, as shall be determined by a judge of the county court of the county in which the village, or if it comprises more counties than one, the larger or largest part of the village is situate.

Application
to judge.

(2) Either party may at any time apply to the judge for a modification of the terms of the agreement or order. R.S.O. 1937, c. 266, s. 536.

Performance
of statute
labour.

510.—(1) The trustees shall be entitled to have the statute labour to be performed by the ratepayers of the village performed in the village.

When coun-
cil required
to commute.

(2) If the trustees request the council of a township to commute the statute labour payable by the ratepayers in that part of the village which is situate in the township, the council shall provide for such commutation at such rate not exceeding \$3 per day, as may be requested by the trustees.

Collection
and applica-
tion of com-
mutation
money.

(3) The amount of the commutation money shall be collected by the collector of the township and be placed to the credit of the trustees in the books of the treasurer of the township. R.S.O. 1937, c. 266, s. 537.

Powers of
trustees.

511. The trustees may,

- (a) construct sidewalks and culverts and make, improve, drain and repair the highways in the village;
- (b) make contracts for the supply of light, heat, power, water or other public utilities by any person to the

trustees for the purposes of the village or to the residents thereof,

and do all things necessary for any of such purposes. R.S.O. 1937, c. 266, s. 538.

512.—(1) The treasurer of a township shall, if he has money of the corporation in hand and not otherwise appropriated, from time to time pay any order of the inspecting trustee or of any two of the trustees to the extent of, Payment by township treasurer of orders of trustees.

(a) the sum required by section 507 to be levied by the council of the township and any sum which the council is required by the provisions of this Part to place to the credit of the trustees, although the same have not been then collected;

(b) any money received for licence fees under any by-law of the trustees and for penalties for breaches of any such by-law or of sections 520, 521 and 522.

(2) An order shall not be given under this section except for work actually performed or in payment pursuant to an executed contract. R.S.O. 1937, c. 266, s. 539. When orders not to be given.

513.—(1) Upon the application of the trustees, the council of a township in which a police village is situate shall submit for the assent of the electors of the village, and if it receives such assent shall pass a by-law for borrowing money for, Submission of money by-laws for certain purposes.

(a) the construction of sidewalks of cement, concrete, brick or other permanent material;

(b) the purchase of fire engines and other appliances for fire protection and the supply of water therefor;

(c) lighting the highways in the village;

(d) supplying water, light, heat or power to the trustees for the purposes of the village or to the residents thereof;

(e) acquiring land as a site for and erecting thereon a police village hall,

and for the issue of debentures of the corporation of the township for the money borrowed. R.S.O. 1937, c. 266, s. 540 (1); 1947, c. 69, s. 47.

(2) The special rate for the payment of the principal and interest shall be imposed upon the rateable property in the village. Special rate.

(3) The money borrowed shall be retained in the hands of the treasurer of the township, and he shall pay out of it the Expenditure of money borrowed.

orders of the inspecting trustee or of any two trustees in payment for work actually performed or of an executed contract with respect to the work or service for undertaking which the by-law was passed.

Undertaking
of work.

(4) When the by-law is passed, the trustees may undertake the work or service.

Control of
fire engines,
etc.

(5) The trustees shall have the control, care and management of the fire engine and appliances, and of the plant and appliances for the supply of water, light, heat or power, and of the police village hall.

Statement
to be fur-
nished to
clerk of
township
of amount
required
to be levied
for certain
purposes.

(6) The trustees shall in each year before the striking of the rate by the council of the township furnish to the clerk a statement showing in detail the amount required to be levied upon the rateable property of the village for the current year for any such work or service which has been undertaken and for the care and maintenance of any fire engine and appliances purchased and for providing water therefor and for the maintenance and operation of the plant and appliances for the supply of light, heat or power and of the police village hall. R.S.O. 1937, c. 266, s. 540 (2-6).

Purchase of
fire engines
and appli-
ances with
consent of
township
council.

514.—(1) The trustees may, with the consent of the council of the township in which the village is situate expressed by by-law or resolution, purchase fire engines and appliances for fire protection. R.S.O. 1937, c. 266, s. 541 (1); 1947, c. 69, s. 48 (1).

Township
to pass
debenture
by-law.

(2) Upon the purchase being made, the council of the township shall pass a by-law for raising the amount of the purchase money by the issue of debentures of the corporation of the township. R.S.O. 1937, c. 266, s. 541 (2); 1947, c. 69, s. 48 (2).

Special rate.

(3) The special rate imposed for the payment of the debentures shall be imposed upon the rateable property in the village.

Assent of
electors not
required.

(4) The assent of the electors to the by-law shall not be necessary.

Application
of subss. 5
and 6 of
s. 513.

(5) Subsections 5 and 6 of section 513 shall apply to a fire engine and appliances purchased under the authority of this section. R.S.O. 1937, c. 266, s. 541 (3-5).

Fire-
protection
agreements.

515. The trustees may enter into agreement with any municipality for the use of the fire-fighting equipment, or any of it, of the village upon such terms and conditions and for such consideration based on cost as may be agreed upon or failing agreement as may be determined by the Municipal Board, provided that notwithstanding the provisions of any

such agreement no liability shall accrue to the trustees for failing to supply the use of the fire-fighting equipment, or any of it. 1947, c. 69, s. 49.

ESTABLISHMENT OF PARKS, GARDENS, ETC.

516.—(1) Upon the petition of three-fourths of the electors qualified to vote upon money by-laws, the council of a township in which a police village is situate may pass a by-law for acquiring land within or outside the limits of the village for a highway or for a public park, garden or place for exhibitions, and for the erection thereon of such buildings and fences as the council may deem necessary for the purposes of such highway, park, garden or place for exhibitions and may dispose of such land when no longer required for such purposes.

Acquiring land for parks, exhibitions, etc.

(2) The trustees shall have the care, control and management of such highway, park, garden or place. R.S.O. 1937, c. 266, s. 543 (1, 2).

Control and management of parks, etc.

(3) The council of the township may provide,

Powers of township council as to levying cost of parks, etc.

(a) that the money required for the purpose mentioned in subsection 1 shall be levied upon the rateable property in the village; or

(b) that such money be raised by the issue of debentures of the corporation of the township. R.S.O. 1937, c. 266, s. 543 (3); 1947, c. 69, s. 50.

(4) The by-law shall impose the special rate for the payment of the debentures upon the rateable property in the village.

Special rates.

(5) The trustees shall annually before the striking of the rate for the year by the council of the township, furnish to the council a statement showing in detail the amount required to be levied for the current year for managing and maintaining the highway, park, garden or place for exhibitions, and the same shall be levied upon the land in the village.

Statement as to amount required for maintenance of parks, etc.

(6) The assent of the electors to a by-law passed under this section shall not be necessary. R.S.O. 1937, c. 266, s. 543 (4-6).

Assent of electors not required.

517.—(1) Where the village comprises parts of two or more townships, a by-law for the purposes mentioned in sections 513, 514 and 516 may be passed by the trustees, with the assent of the electors of the village qualified to vote on money by-laws, and for the purposes of such by-laws the trustees shall have all the powers of the council of a village,

Trustees to pass money by-laws where village situate in two or more townships.

except the power to issue the debentures for the payment of the principal and interest.

Fixing proportion of debt to be borne by parts of village.

(2) The by-law shall fix the proportion of the debt for payment of which the special rate is to be imposed, which is to be borne by the part of the village situate in each township, and such proportion shall be the same as that in which the annual sum to be levied as provided by section 507 is to be levied according to the then last determination of the assessors or of the assessors and inspecting trustee under section 508.

Certified copy for each township.

(3) If the by-law receives the assent of the electors, the trustees, after passing it, shall serve a certified copy of it upon the clerk of each of the townships.

By-law of township for raising money.

(4) The council of each township shall forthwith thereafter pass a by-law for raising the amount which is to be borne by that part of the village situate in the township by the issue of debentures of the corporation of the township, payable as provided by the by-law of the trustees, and it shall not be necessary that such by-law shall receive the assent of the electors or impose any rate for the payment of the debentures.

Special rates.

(5) The special rates imposed by the by-law of the trustees shall be levied and collected by the councils of the townships within which the property upon which they are imposed is situate. R.S.O. 1937, c. 266, s. 544.

SPECIAL POWERS

Special powers of trustees.

518.—(1) The trustees shall have the like power to pass by-laws as is conferred on the council of a village with respect to,

- (a) driving or riding on roads and bridges, by paragraphs 43 and 44 of section 386;
- (b) public libraries, by paragraph 31 of section 386;
- (c) vehicles on sidewalks, by paragraph 46 of section 386;
- (d) pounds, by paragraphs 3 to 6 of subsection 1 of section 388;
- (e) removal of snow and ice, by paragraphs 67 and 68 of subsection 1 of section 388;
- (f) spitting on sidewalks, by paragraph 104 of subsection 1 of section 388;
- (g) horses and cattle upon sidewalks, by paragraph 103 of subsection 1 of section 388;
- (h) traffic on highways, etc., by paragraph 107 of subsection 1 of section 388;

- (i) tobacconists, by paragraph 2 of section 412;
- (j) bagatelle and billiard tables, by paragraph 1 of section 413;
- (k) exhibitions, places of amusement, etc., by paragraph 4 of section 413; and
- (l) trees on highways by section 483.

(2) Where power is conferred to license, the licence fee shall be fixed by the trustees, and subsections 1, 3, 4, 5 and 6 of section 263 shall apply. Fixing amount of licence fee.

(3) While a by-law passed under subsection 1 is in force, no by-law of the council of the township applicable to the same subject matter shall apply to or be in force in the village. When by-law of township not to apply to village.

(4) Where a by-law is passed under clause *e* of subsection 1, the maximum length or distance of sidewalks adjoining land occupied and used as farm lands for which the occupant or owner thereof may be required to clear away and remove snow and ice or be charged with the expense of such clearing away and removal shall be limited to 200 lineal feet notwithstanding that a greater length or distance of sidewalks may adjoin such land, and the clearing away and removal of snow and ice from such greater length or distance shall be undertaken by the trustees at the expense of the police village. Length of sidewalk to be cleared by owner.
R.S.O. 1937, c. 266, s. 546.

519.—(1) Every by-law of the trustees shall be signed by at least two of them. Authentication of by-laws.

(2) A certified copy of every such by-law shall within seven days after it is passed be transmitted to the clerk of every township a part of which is comprised in the village. Certified copies to be sent to clerk of township. R.S.O. 1937, c. 266, s. 547.

PREVENTION OF FIRE

520.—(1) Every proprietor of a house more than one storey high shall place and keep a ladder on the roof of such house near to or against the principal chimney thereof, and another ladder reaching from the ground to the roof of such house, under a penalty of \$1 for every omission, and a further penalty of \$2 for every week for which such omission continues. For providing ladders, etc.

(2) Every householder shall provide himself with two buckets fit for carrying water in case of accident by fire, under a penalty of \$1 for each bucket not so provided. Fire buckets.

(3) No person shall build any oven or furnace unless it adjoins and is properly connected with a chimney of stone or Furnaces, etc.

brick at least three feet higher than the house or building in which the oven or furnace is built, under a penalty of not more than \$2 for non-compliance.

Stove-pipes,
etc.

(4) No person shall pass a stove-pipe through a wooden or lathed partition or floor, unless there is a space of four inches between the pipe and the wood-work nearest thereto, and the pipe of every stove shall be inserted into a chimney, and there shall be at least ten inches in the clear between any stove and any lathed partition or wood-work, under a penalty of \$2.

Light in
stables, etc.

(5) No person shall enter a mill, barn, outhouse or stable with a lighted candle or lamp, unless it is well enclosed in a lantern, nor with a lighted pipe or cigar, nor with fire not properly secured, under a penalty of \$1.

Chimneys.

(6) No person shall light or have a fire in a wooden house or outhouse, unless such fire is in a brick or stone chimney, or in a stove of iron or other metal, properly secured, under a penalty of \$1.

Securing
fire carried
through
streets, etc.

(7) No person shall carry fire or cause fire to be carried into or through any street, lane, yard, garden or other place, unless such fire is confined in a copper, iron or tin vessel, under a penalty of \$1 for the first offence, and of \$2 for every subsequent offence.

Lighting
fires on
streets.

(8) No person shall light a fire in a street, lane or public place under a penalty of \$1.

Hay, straw,
etc.

(9) No person shall place hay, straw or fodder, or cause the same to be placed, in a dwelling house, under a penalty of \$1 for the first offence, and of \$5 for every week the hay, straw or fodder is suffered to remain there.

Ashes, etc.

(10) No person, except a manufacturer of pot or pearl ashes, shall keep or deposit ashes or cinders in any wooden vessel, box or thing not lined or doubled with sheet-iron, tin or copper, so as to prevent danger of fire from such ashes or cinders, under a penalty of \$1.

Lime.

(11) No person shall place or deposit any quick or unslacked lime in contact with any wood of a house, outhouse or other building, under a penalty of \$1, and a further penalty of \$2 a day until the lime has been removed, or is secured, so as to prevent any danger from fire, to the satisfaction of the inspecting trustee.

Charcoal
furnaces.

(12) No person shall erect a furnace for making charcoal of wood, under a penalty of \$5. R.S.O. 1937, c. 266, s. 548.

GUNPOWDER

521.—(1) No person shall keep or have gunpowder for sale, except in boxes of copper, tin or lead, under a penalty of \$5 for the first offence, and \$10 for every subsequent offence. Gunpowder, how to be kept.

(2) No person shall sell gunpowder, or permit gunpowder to be sold in his house, storehouse or shop, outhouse or other building, at night, under a penalty of \$10 for the first offence, and of \$20 for every subsequent offence. R.S.O. 1937, c. 266, s. 549. Not to be sold at night.

NUISANCES

522. No person shall throw, or cause to be thrown, any filth or rubbish into a street, lane or public place, under a penalty of \$1, and a further penalty of \$2 for every week for which he neglects or refuses to remove the same after being notified to do so by the inspecting trustee or by some other person authorized by him. R.S.O. 1937, c. 266, s. 550. Certain nuisances prohibited.

PROSECUTIONS

523.—(1) It shall be the duty of the trustees to see that the provisions of sections 520, 521 and 522 are not contravened, and that offenders are prosecuted for breaches of them. Trustees required to prosecute offenders.

(2) Any trustee who wilfully neglects or omits to prosecute an offender against any of the provisions of sections 520, 521 or 522, when requested so to do by a resident householder of the village who offers to adduce proof of the offence, and a trustee who wilfully neglects or omits to fulfil any other duty imposed on him by this Part, shall be liable to a penalty of \$5. R.S.O. 1937, c. 266, s. 551. Penalty for neglect to prosecute.

524. The penalties imposed by or under the authority of this Part shall be recoverable under *The Summary Convictions Act*, all of the provisions of which shall apply except that proceedings for the recovery of penalties for contraventions of sections 520 to 523 shall be commenced within 10 days after the commission of the offence, or if it is a continuing offence, within 10 days after it has ceased and not afterwards. R.S.O. 1937, c. 266, s. 552. Penalties, how recoverable. Rev. Stat., c. 379.

INCORPORATION OF TRUSTEES

525.—(1) Where a police village has a population of not less than 500, the trustees may be created a body corporate and when incorporated the corporation shall be styled "The Board of Trustees of the Police Village of" (*naming it*). Incorporation of board of trustees.

Procedure
as to incor-
poration
of board.

(2) The provisions of this Part as to the erection of a police village shall apply *mutatis mutandis* to an application for the incorporation of the trustees of a police village with the exception that the petition for incorporation shall be signed by not less than 50 resident owners of the village whose names are entered on the last revised assessment rolls of the municipality or municipalities of parts of which the village is composed. R.S.O. 1937, c. 266, s. 553.

Appointment
of chairman
and secre-
tary.

526.—(1) At its first meeting in each year the board shall appoint one of its members to be the chairman, and shall also appoint a secretary.

Presiding
officer.

(2) The chairman shall, if present, preside at all meetings of the board and in his absence the board shall appoint one of its members to act as chairman during such absence. R.S.O. 1937, c. 266, s. 554.

Authentica-
tion of by-
laws.

527.—(1) The by-laws of the board shall be signed by the chairman or acting chairman and shall be sealed with its seal.

Proof of
by-laws.

(2) The provisions of this Act as to the proof of by-laws of a council shall apply to the by-laws of the board. R.S.O. 1937, c. 266, s. 555.

Repair and
maintenance
of improve-
ments and
works.

528. The expenses of repairing and maintaining all works, improvements and services undertaken by the board under the authority of this Act, shall be borne by the board, and such expenses shall be levied and collected by the councils of the townships on the requisition in writing of the board, in like manner as the money to be levied as provided by section 507. R.S.O. 1937, c. 266, s. 556.

Remedy over
of township
against
board for
damages
occasioned
by non-
repair.

529.—(1) If the board makes default in maintaining and keeping in repair any such work, and the corporation of a township becomes liable under section 453 for damages suffered by or occasioned to any person in consequence of such default, the corporation shall be entitled to the remedy over against the board provided for by section 460.

Special rate
for collection
of amount of
damages.

(2) The amount required to satisfy the liability of the board shall be levied and collected by a special rate on the rateable property in the village, and it shall be the duty of the board to make a requisition in writing to the council of the township to levy and collect the same.

Apportion-
ment of
special rate.

(3) Where the village comprises parts of two or more townships the special rate shall be apportioned between the townships in the manner provided by section 508, and shall be levied and collected by the councils thereof in accordance with the requisition of the board. R.S.O. 1937, c. 266, s. 557.

530.—(1) The board shall have the like powers as the council of a village for constructing, purchasing, improving, extending, maintaining, managing and conducting water, light, heat, power and gas works.

Power to construct water, light, heat, power and gas works.

(2) A copy of every by-law passed under the authority of subsection 1, shall be filed with the clerk of every township in which any part of the village is situate.

Copy of by-law to be filed with township clerk.

(3) Where the village is situate in one township, the council of that township shall levy and collect the amount required to be raised under any such by-law by a special annual rate upon the rateable property in the village, and where the village comprises parts of two or more townships, the council of each township shall levy and collect the proportion of the amount to be raised by it by a special annual rate on the rateable property in that part of the village situate in such township.

Special rates.

(4) The proportion to be raised by each township shall be determined under the provisions of section 508.

Proportion of each township.

(5) Where it is necessary to issue debentures for any of the purposes of this section the township or townships in which the village is situate may issue debentures for its due proportion to be determined as aforesaid. R.S.O. 1937, c. 266, s. 558.

Issue of debentures.

531.—(1) The powers expressly conferred on boards of trustees of police villages shall be in addition to the powers conferred by this Part on trustees of a police village, and except where other provision is made by this Part with respect to such boards all the provisions of this Part relating to trustees of police villages shall apply to such boards.

Board to have all powers of trustees of a police village.

(2) Sections 492, 495 and 496 shall apply *mutatis mutandis* to by-laws passed under the authority of this Part by a board of trustees of a police village. R.S.O. 1937, c. 266, s. 559.

Power to impose penalties, etc.

PART XXIII

MISCELLANEOUS

532. Where the forms therefor are not prescribed by this Act the Department may approve of forms of by-laws, notices and other proceedings to be passed, given, or taken under or in carrying out the provisions of this Act, and every by-law, notice or other proceeding which is in substantial conformity with the form so approved, shall not be open to objection on the ground that it is not in accordance with the provisions of this Act applicable thereto, but the use of such forms shall not be obligatory. R.S.O. 1937, c. 266, s. 560; 1944, c. 39, s. 49.

Forms of notices, etc., by-laws.

FORM 1

(Section 72 (1) (a))

DECLARATION OF QUALIFICATION BY CANDIDATE

I, *A.B.*, a candidate for election to the office of in the municipality of declare that:

1. I am a householder residing in this municipality and am assessed as owner (*or* tenant) of a dwelling or apartment house (*or* part of a dwelling or apartment house separately occupied as a dwelling) or (am rated on the last revised assessment roll for land held in my right for an amount sufficient to entitle me to be entered on the voters' list) and that I reside in (*or* within five miles of) the municipality.

2. I am entered on the last revised voters' list as qualified to vote at municipal elections.

3. I am a British subject and am not a citizen or a subject of any foreign country.

4. I am of the full age of 21 years.

5. I am not disqualified under the provisions of section 56 of *The Municipal Act* or under any other Act.

6. I have taken the oath of allegiance (Form 2), which I attach hereto.

And I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and by virtue of the *Canada Evidence Act*.

Declared before me at }
 this } *A.B.*
 day of , 19.... }

R.S.O. 1937, c. 266, Form 2; 1939, c. 30, s. 35.

FORM 2

(Section 72 (1) (b))

I, *A.B.*, a candidate for election to the office of in the municipality of do swear that I will be faithful and bear true allegiance to His Majesty King George VI (*or the reigning sovereign for the time being*).

Sworn before me at the }
 of }
 in the of } *A.B.*
 this day of }
 19.... }


1939, c. 30, s. 36.

FORM 3

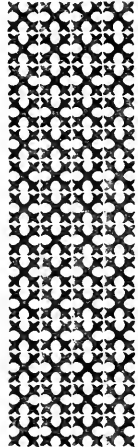
(Section 95 (1))

BALLOT PAPER FOR CITIES AND TOWNS

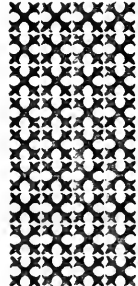
FORM FOR MAYOR

	Election for the Members of the Municipal Council of the City of Ward No. Polling Subdivision No. day of 19	FOR MAYOR.	ALLAN. Charles Allan, of King Street, in the City of Toronto, Merchant.
			BROWN. William Brown, of the City of Toronto, Banker.

FORM FOR REEVE AND DEPUTY REEVE IN TOWNS

	Election for the Members of the Municipal Council of the Town of Ward No., Polling Subdivision No. day of , 19	FOR REEVE.	CLITHEROE. Albert Clitheroe, of the Town of Galt, Baker.
			HUGHES. David Hughes, of the Town of Galt, Tinsmith.
		FOR DEPUTY REEVE.	FARQUHARSON. Robin Farquharson, of the Town of Galt, Builder.
			MacPHERSON. Roderick MacPherson, of the Town of Galt, Printer.

FORM FOR ALDERMEN OR COUNCILLORS

	Election for the Members of the Municipal Council of the City of Ward No., Polling Sub- division No. day of , 19	FOR ALDERMAN (or) COUNCILLOR.	ARGO. James Argo, of the City of Toronto, Gentleman.
			BAKER. Samuel Baker, of the City of Toronto, Baker.
			DUNCAN. Robert Duncan, of the City of Toronto, Printer.

[NOTE.—In the case of cities and towns where Aldermen or Councillors are elected by general vote the form above given is to be adapted to suit the case.]

R.S.O. 1937, c. 266, Form 3.

FORM 4

(Section 95 (2))

BALLOT PAPER FOR CITIES
OF NOT LESS THAN 200,000 POPULATION

FORM FOR MAYOR AND CONTROLLERS

CITY OF TORONTO
Municipal Elections
[] , 19 []
Ward No. []
Polling Subdivision No. []
FOR MAYOR

ALLAN.

Charles Allan,
of King Street,
in the City of Toronto,
Merchant.

BROWN.

William Brown,
of the City of Toronto,
Banker.

FORM FOR ALDERMEN

CITY OF TORONTO
Municipal Elections [] , 19 []
Ward No. [] Polling Subdivision No. []
FOR ALDERMAN

ARGO.

James Argo,
of the City of Toronto,
Gentleman.

BAKER.

Samuel Baker,
of the City of Toronto,
Baker.

DUNCAN.

Robert Duncan,
of the City of Toronto,
Printer.

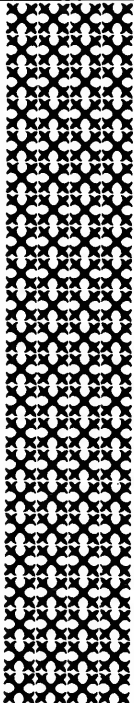
ROBINSON.

Archibald Robinson,
of the City of Toronto,
Butcher.

FORM 5

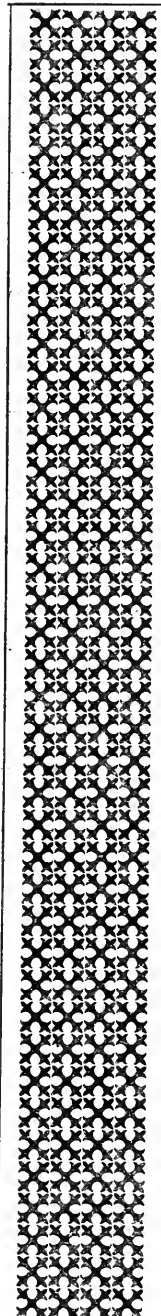
(Section 95 (1))

BALLOT PAPER FOR VILLAGES

	Election of Members of the Municipal Council of the of in the County of , Polling Subdivision No. , day of , 19	FOR REEVE.	BROWN. John Brown, of the Village of Weston, Merchant.
			ROBINSON. George Robinson, of the Village of Weston, Physician.
		FOR COUNCILLORS.	BULL. John Bull, of the Village of Weston, Butcher.
			JONES. Morgan Jones, of the Village of Weston, Grocer.
			McALLISTER. Allister McAllister, of the Village of Weston, Tailor.
			O'CONNELL. Patrick O'Connell, of the Village of Weston, Milkman.

R.S.O. 1937, c. 266, Form 5.

FORM 6
(Section 95 (1))
BALLOT PAPER FOR TOWNSHIPS

	Election of Members of the Municipal Council of the Township of in the County of	
	FOR REEVE.	<p style="text-align: center;">ALLSOPP.</p> <p style="text-align: center;">Albert Allsop, of the Township of York, Brewer.</p> <hr/> <p style="text-align: center;">BURTON.</p> <p style="text-align: center;">Henry Burton, of the Township of York, Farmer.</p>
	FOR FIRST DEPUTY REEVE.	<p style="text-align: center;">BANKS.</p> <p style="text-align: center;">John Banks, of the Township of York, Blacksmith.</p> <hr/> <p style="text-align: center;">CALDWELL.</p> <p style="text-align: center;">Henry Caldwell, of the Township of York, Market Gardener.</p>
	FOR SECOND DEPUTY REEVE.	<p style="text-align: center;">CONNOR.</p> <p style="text-align: center;">Patrick Connor, of the Township of York, Cattle Dealer.</p> <hr/> <p style="text-align: center;">DAVIDSON.</p> <p style="text-align: center;">Thomas Davidson, of the Township of York, Milkman.</p>
	FOR THIRD DEPUTY REEVE.	<p style="text-align: center;">EDWARDS.</p> <p style="text-align: center;">Daniel Edwards, of the Township of York, Miller.</p> <hr/> <p style="text-align: center;">FERGUSON.</p> <p style="text-align: center;">George Ferguson, of the Township of York, Nurseryman.</p>
	FOR COUNCILLORS.	<p style="text-align: center;">BRITTON.</p> <p style="text-align: center;">James Britton, of the Township of York, Farmer.</p> <hr/> <p style="text-align: center;">LLOYD.</p> <p style="text-align: center;">David Lloyd, of the Township of York, Farmer.</p> <hr/> <p style="text-align: center;">MACDONALD.</p> <p style="text-align: center;">Philip Macdonald, of the Township of York, Agent.</p> <hr/> <p style="text-align: center;">O'LEARY.</p> <p style="text-align: center;">Dennis O'Leary, of the Township of York, Farmer.</p>

[NOTE.—Where the election is to fill a vacancy, the ballot papers are to contain only so much of the form as is required, and the counterfoils shall bear, instead of the words appearing on the form, the words “Election of, to fill a vacancy in the office of Ward No., Polling subdivision No., day of, 19”.

Where controllers, or commissioners, or members of the board of education are to be elected, the ballot papers are to be similar in form.]

FORM 7

(Section 98)

DIRECTIONS FOR THE GUIDANCE OF VOTERS IN VOTING

The voter will go into one of the compartments, and with the pencil provided in the compartment, place a cross, thus X, on the right hand side, opposite the name or names of the candidate or candidates for whom he votes or at any place within the division which contains the name or names of such candidate or candidates.

The voter will fold up the ballot paper so as to show the name or initials of the deputy returning officer (*or* returning officer, *as the case may be*) signed on the back, and leaving the compartment will, without showing the front of the paper to any person, deliver such ballot paper so folded to the deputy returning officer (*or* returning officer, *as the case may be*) and forthwith quit the polling place.

If the voter inadvertently spoils a ballot paper, he may return it to the deputy returning officer (*or* returning officer, *as the case may be*) who will if satisfied of such inadvertence, give him another ballot paper.

If the voter votes for more candidates for any office than he is entitled to vote for, his ballot paper will be void as far as relates to that office, and will not be counted for any of the candidates for that office.

If the voter places any mark on his ballot paper by which he may afterwards be identified, or if the ballot paper has been torn, defaced, or otherwise dealt with by the voter so that he can thereby be identified, it will be void, and will not be counted.

If the voter takes a ballot paper out of the polling place, or deposits in the ballot box any other paper than the one given to him by the officer, he will be subject to imprisonment for any term not exceeding 6 months, with or without hard labour.

In the following forms of ballot paper, given for illustration, the candidates are, for Mayor, Jacob Thompson and Robert Walker; for Reeve, George Jones and John Smith; for Deputy Reeve, Thomas Brown and William Davis; for Councillors, John Bull, Morgan Jones, Allister McAllister and Patrick O'Connell; and the elector has marked the first ballot paper in favour of Jacob Thompson for Mayor, the second ballot paper in favour of George Jones for Reeve, the third ballot paper in favour of William Davis for Deputy Reeve, and the fourth ballot paper in favour of John Bull and Patrick O'Connell for Councillors.

	Election for the Members of the Municipal Council of the Town of Ward No. Polling Sub-division No. day of 19	<i>FOR MAYOR.</i>	<p style="text-align: center;">THOMPSON.</p> <p>Jacob Thompson, of the Town of Barrie, Merchant. X</p> <hr/> <p style="text-align: center;">WALKER.</p> <p>Robert Walker, of the Town of Barrie, Physician.</p>
	Election for the Members of the Municipal Council of the Town of Ward No. Polling Sub-division No. day of 19	<i>FOR REEVE.</i>	<p style="text-align: center;">JONES.</p> <p>George Jones, of the Town of Barrie, Barrister. X</p> <hr/> <p style="text-align: center;">SMITH.</p> <p>John Smith, of the Town of Barrie, Banker.</p>
	Election for the Members of the Municipal Council of the Town of Ward No. Polling Sub-division No. day of 19	<i>FOR DEPUTY REEVE.</i>	<p style="text-align: center;">BROWN.</p> <p>Thomas Brown, of the Town of Barrie, Grocer. X</p> <hr/> <p style="text-align: center;">DAVIS.</p> <p>William Davis, of the Town of Barrie, Jeweller.</p>
	Election for the Members of the Municipal Council of the Town of Ward No. Polling Sub-division No. day of 19	<i>FOR COUNCILLORS.</i>	<p style="text-align: center;">BULL.</p> <p>John Bull, of the Town of Barrie, Butcher. X</p> <hr/> <p style="text-align: center;">JONES.</p> <p>Morgan Jones, of the Town of Barrie, Grocer.</p> <hr/> <p style="text-align: center;">McALLISTER.</p> <p>Allister McAllister, of the Town of Barrie, Tailor.</p> <hr/> <p style="text-align: center;">O'CONNELL.</p> <p>Patrick O'Connell, of the Town of Barrie, Milkman. X</p>

FORM 8
(Section 101)

FORM IN WHICH POLL BOOK TO BE FURNISHED TO DEPUTY RETURNING OFFICERS IS TO BE PREPARED

Column for mark indicating that the voter has voted.	NAMES OF THE VOTERS	Description of property in respect of which the voter is entitled to vote.	Owner, Tenant, Farmer's Son, etc.	Residence of Voter.	Occupation.	Objections.	Sworn or affirmed.	Refused to swear or affirm.	Mayor and Reeve.	Deputy Reeves.	Councillors.	REMARKS

NOTE.—In Cities, the column above headed "Mayor and Reeve" is to be headed "Mayor"; and the column above headed "Councillors" is to be headed "Aldermen". In Townships and Villages, the above column headed "Mayor and Reeve" is to be headed "Reeve". Where Controllers, Commissioners or Members of a Board of Education, are to be elected, columns for these are to be added with appropriate headings.

R.S.O. 1937, c. 266, Form 8.

FORM 9

(Section 106 (1))

CERTIFICATE AS TO ASSESSMENT ROLL AND VOTERS' LIST

Election to the Municipal Council of the
..... of, 19.....

I, A.B., Clerk of the Municipality of in the
County of, hereby certify that the assess-
ment roll for this municipality upon which the voters' list to be used
at this election is based was finally revised on the
day of, 19....., and that the last day for making
complaint to the Judge with respect to the list was the
day of, 19.....

Dated this day of, 19....

[Seal] A.B.,
Clerk

R.S.O. 1937, c. 266, Form 9.

FORM 10

(Section 58 (7))

Municipality of

CERTIFICATE TO ENTER NAME ON VOTERS' LIST

I hereby certify that the name of the following person, that is to say:

Name	Con- dition	Lot	Street or Con- cession	Owner, Tenant, Etc.	Post Office Address	Jurors' column
.....
.....
.....
.....
.....

whose name is entered on the last revised assessment roll has been in
error omitted from the last revised voters' list of this municipality and
that he is entitled to be entered thereon and to vote at the municipal poll
to be held on the day of, 19, for Polling
Subdivision No. in the Ward, and this is your
authority for entering the name of such person on the voters' list for the
said subdivision and for permitting him to vote as if his name had been
entered before the said list was revised.

Given under my hand this day of, 19....
Clerk

To the Returning Officer
and Deputy Returning Officer,
Polling Subdivision No.Ward.

R.S.O. 1937, c. 266, Form 10.

FORM 11

(Section 115 (1))

OATH TO BE ADMINISTERED TO A VOTER

You swear (a)

1. That you are the person named or intended to be named by the name ofin the list (or supplementary list) of voters (b) now shown to you.

2. That you are a natural born (or naturalized) subject of His Majesty, and of the full age of 21 years.

3. That you are not a citizen or subject of any foreign country.

4. That (c)

5. (In the case of a municipality not divided into wards) That you have not voted before at this election at this or any other polling place.

6. (Where the municipality is divided into wards and the election is not by general vote) That you have not voted before at this election at this or any other polling place in this ward, (or if the election is by general vote) that you reside in this polling subdivision (or are not entitled to vote in the polling subdivision in which you reside or are not resident within the municipality, as the case may be), and that you have not voted before or elsewhere at this election, and will not vote elsewhere at this election (d).

7. That you have not directly or indirectly received any reward or gift, nor do you expect to receive any, for the vote which you tender.

8. That you have not received anything, nor has anything been promised you, directly or indirectly, either to induce you to vote at this election, or for loss of time, travelling expenses, hire of team, or any other service connected with this election.

9. That you have not directly or indirectly paid or promised anything to any person to induce him to vote or to refrain from voting at this election.

(a) If the voter is a person who may by law affirm in civil cases, substitute for "swear", "solemnly affirm".

(b) In the case of a new municipality in which there has not been any assessment roll, instead of referring to the list of voters, the oath is to state the land in respect of which the person claims to vote.

(c) In the case of a person claiming to vote in respect of a freehold estate, insert here, "At the date of this election you are in your own right (or your wife is in her own right or your husband is in his own right) owner of land within this polling subdivision (or, in case of a ward, not divided into polling subdivisions, "within this ward").

In the case of a person claiming to vote in respect of a leasehold estate, insert here, "That you were (or your wife was or your husband was) actually and truly in good faith possessed to your (or her or his) own use, and benefit as tenant of the land in respect of which your name is entered on such list". And in the case of a wife or husband of a tenant, insert here, "And your (wife or husband) is a resident of this municipality and has resided within it for one month next before this election".

In the case of a person claiming to vote as a farmer's son, insert here That on the day of, 19....., (the day certified by the clerk as the date of the final revision of the assessment roll upon which the voters' list is based, or, at the option of the voter, the day certified by the clerk as the last day for making complaint to the Judge with respect to such list) A.B., (naming him or her).....was actually,

truly and in good faith possessed to his (or her) own use and benefit as owner (or as tenant under a lease the term of which was not less than five years, as you verily believe of the land in respect of which your name is entered on the voters' list, and that you are a son (or a stepson) of the said A.B., and that you resided on the said land for twelve months next before the said day, and were not absent during that period except temporarily, and for not more than six months in all, and that you are still a resident of this municipality.

Where the voter is a leaseholder, and the voting is on a by-law under section 66 of The Local Improvement Act, add:

That you have, by the lease under which you hold, contracted to pay all municipal taxes, including local improvement rates.

(d) (In the case of a municipality divided into wards, if the by-law is one for creating a debt, substitute for paragraph 6 the following):

6. That you have not voted before on the by-law at this or any other polling place in this ward; *(and in the case of any other by-law, the following):*

6. That you reside in this polling subdivision or are not entitled to vote in the polling subdivision in which you reside or are not resident within the municipality *(as the case may be)*, and that you have not voted before elsewhere, and will not vote elsewhere on the by-law.

Where the voter is a leaseholder, and the voting is on a by-law for creating a debt, add the following paragraph:

10. That the lease under which you hold extends for the period for which the debt or liability to be created by the by-law is to run, and you have contracted by the lease to pay all municipal taxes in respect of the land other than special assessments for local improvements.

Where the voting is on a by-law, substitute for the words "at this election" the words "on the by-law"; and where the voting is on a question, substitute for the words "at this election" the words "on the question".

R.S.O. 1937, c. 266, Form 11; 1938, c. 22, s. 15.

NOTE.—*Where the voter is the nominee of a corporation, the oath shall state the fact, and that the voter has not voted before on the by-law "at this or any other polling place", adding if the municipality is divided into wards "in this ward", and shall also contain paragraphs 1, 7, 8 and 9.*

FORM 12

(Section 120)

DECLARATION OF INABILITY TO READ

I, A.B., of, being numbered on the voters' list for polling subdivision No., in the City *(or as the case may be)* of, being a legally qualified elector for the City *(or as the case may be)* of declare that I am unable to read *(or that I am from physical incapacity unable to mark a ballot paper, or that I object on religious grounds to mark a ballot paper, as the case may be)*.

(A.B., His X Mark)

Dated this day of, 19....

R.S.O. 1937, c. 266, Form 12.

NOTE.—*If the person objects on religious grounds to mark a ballot paper, the declaration may be made orally and to the above effect.*

FORM 13

(Section 120 (5))

DECLARATION OF FRIEND OF BLIND VOTER

I, *(insert name of friend)*, of the
 of in the County of
....(occupation), declare that I will keep secret the name of the candidate
 for whom I mark the ballot of.....*(name of blind voter)*.....on whose
 behalf I act.

Dated this day of, 19....

Signature of friend

Witness:

Deputy Returning Officer

R.S.O. 1937, c. 266, Form 13.

FORM 14

(Section 120 (7))

CERTIFICATE TO BE WRITTEN UPON OR ANNEXED TO THE DECLARATION OF
 INABILITY TO READ

I, *C.D.*, Deputy Returning Officer for Polling Subdivision No. for
 the City *(or as the case may be)* of, hereby certify that the
 above *(or within)* declaration, having been first read to the above *(or*
within) named *A.B.*, was signed by him in my presence with his mark.

C.D.

Dated this day of, 19....

R.S.O. 1937, c. 266, Form 14.

FORM 15

(Section 134 (1))

OATH OF POLL CLERK OR MESSENGER WHERE THE DEPUTY RETURNING
 OFFICER IS UNABLE TO DELIVER THE BALLOT BOX TO THE
 RETURNING OFFICER

I,, swear that I am the person to whom
, Deputy Returning Officer for Polling Subdivision
 No. of the of
 entrusted the ballot box for the said polling subdivision to be delivered
 to the Clerk; that the ballot box which I delivered to the Clerk this day
 is the ballot box I so received; that I have not opened it and that it has
 not been opened by any other person since I received it from the Deputy
 Returning Officer.

Sworn before me at..... }
this..... }
 day of, 19.... }

A.B.

R.S.O. 1937, c. 266, Form 15.

FORM 19

(Section 253 (1))

DECLARATION OF OFFICE

I, *A.B.*, do solemnly promise and declare that I will truly, faithfully and impartially, to the best of my knowledge and ability, execute the office of (*insert name of office, or in the case of a person who has been appointed to two or more offices which he may lawfully hold at the same time*), that I will truly, faithfully and impartially, to the best of my knowledge and ability, execute the offices to which I have been elected (*or appointed*) in this municipality, and that I have not received and will not receive any payment or reward, or promise thereof, for the exercise of any partiality or malversation or other undue execution of the said office (*or offices*), and that I have not by myself or partner, either directly or indirectly, any interest in any contract with or on behalf of the said corporation (*where declaration is made by the clerk, treasurer, collector, engineer, clerk of works or street overseer, add the words following*) save and except that arising out of my office as clerk (*or my office as assessor or collector, as the case may be*).

R.S.O. 1937, c. 266, Form 19.

FORM 20

(Section 253 (3))

DECLARATION OF CONSTABLES

I, *A.B.*, do solemnly promise and declare that I will truly, faithfully and impartially, to the best of my knowledge and ability, execute the office of (*inserting the name of the office*) in this municipality, and that I have not received and will not receive any payment or reward, or promise thereof, for the exercise of any partiality or malversation or other undue execution of the said office.

R.S.O. 1937, c. 266, Form 20.

FORM 21

(Section 253 (4))

OATH OF RETURNING OFFICER, DEPUTY RETURNING
OFFICER AND POLL CLERK

I, *A.B.*, swear that I will truly, faithfully and impartially, to the best of my knowledge and ability, execute the office of (*inserting the name of the office*) in this municipality and that I have not received and will not receive any payment or reward or promise thereof for the due exercise of any partiality or malversation or other undue execution of the said office.

Sworn before me this }
day of....., 19..... }

R.S.O. 1937, c. 266, Form 21.

FORM 22

(Section 253 (6))

DECLARATION OF AUDITOR

I, *A.B.*, having been appointed auditor for the municipal corporation of , promise and declare that I will faithfully perform the duties of that office according to the best of my judgment and ability; and I do solemnly declare that I had not, directly or indirectly, any share or interest in any contract or employment (except that of auditor, *if reappointed*) with, by or on behalf of such municipal corporation during the year preceding my appointment, and that I have not any such contract or employment except that of auditor, for the present year.

A.B.

R.S.O. 1937, c. 266, Form 22.

FORM 23

(Section 275 (2))

DECLARATION OF ELECTOR

I, the undersigned, *A.B.*, declare that I am an elector in this municipality, and that I am desirous of promoting (*or opposing, as the case may be*) the passing of the by-law to (*here insert object of the by-law*), submitted by the Council of this municipality (*or of voting in the affirmative, or in the negative, as the case may be*), on the question submitted.

Declared before me this }
day of , 19..... }

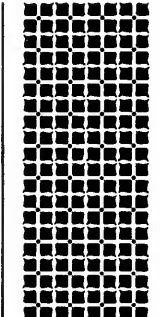
A.B.

R.S.O. 1937, c. 266, Form 23.

FORM 24

(Section 282 (1))

BALLOT PAPER FOR VOTING ON A BY-LAW

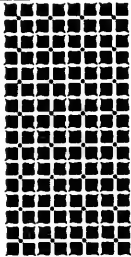
	19..... Voting on By-law to (<i>here insert object of the</i> <i>by-law</i>) submitted by the Council of the of	FOR The By-law.
		AGAINST The By-law.

R.S.O. 1937, c. 266, Form 24.

FORM 25

(Section 282 (1))

BALLOT PAPER FOR VOTING ON QUESTION

	19..... Voting on the follow- ing question (here state questions).	YES
		NO

R.S.O. 1937, c. 266, Form 25.

FORM 26

(Section 283)

DIRECTIONS FOR THE GUIDANCE OF VOTERS IN VOTING

The voter will go into one of the compartments, and with the pencil provided in the compartment, place a cross, thus X, on the right hand side, in the upper space if he votes for the passing of the by-law, or in the affirmative on the question, and in the lower space if he votes against the passing of the by-law, or in the negative on the question.

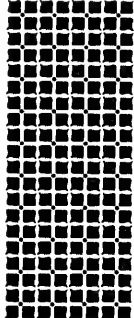
The voter will then fold up the ballot paper so as to show the name or initials of the Deputy Returning Officer (*or* Returning Officer, *as the case may be*) signed on the back, and leaving the compartment will, without showing the front of the paper to any person, deliver such ballot paper so folded to the Deputy Returning Officer (*or* Returning Officer, *as the case may be*) and forthwith quit the polling place.

If the voter inadvertently spoils a ballot paper, he may return it to the Deputy Returning Officer (*or* Returning Officer, *as the case may be*), who will, if satisfied of such inadvertence, give him another ballot paper.

If the voter places on the paper more than one mark, or places any mark on his ballot paper by which he may be afterwards identified, or if the ballot paper has been torn, defaced or otherwise dealt with by the voter so that he can thereby be identified, it will be void, and will not be counted.

If the voter takes a ballot paper out of the polling place, or deposits in the ballot box any other paper than the one given to him by the Deputy Returning Officer (*or* Returning Officer, *as the case may be*), he will be subject to imprisonment for any term not exceeding six months, with or without hard labour.

In the following form of ballot paper, given for illustration, the Elector has marked his ballot paper in favour of the passing of the By-law:

	Voting on By-law to (here insert object of by-law) submitted by Council of the of	FOR X The By-law.
		AGAINST The By-law.

R.S.O. 1937, c. 266, Form 26.

FORM 27

(Section 291 (1))

NOTICE ON PROMULGATION OF BY-LAW

The above is a true copy of a by-law passed by the Municipal Council of the of on the day of, 19..... And all persons are hereby required to take notice that anyone desirous of applying to have such by-law, or any part thereof, quashed, must make his application for that purpose to the Supreme Court, within three months next after the first publication of this notice in the newspaper called the, or he will be too late to be heard in that behalf.

R.S.O. 1937, c. 266, Form 27.

CHAPTER 244

The Municipal Arbitrations Act

1.—(1) All claims against the corporation of a city having a population of not less than 100,000, and all claims made jointly against such corporation and the corporation of an adjoining municipality for compensation or damages for land expropriated or injuriously affected under *The Municipal Act*, and all other claims and questions arising under any lease or other contract to which the corporation is a party, and which by law or by the terms of the lease or contract are to be determined by arbitration, shall be heard and determined by an official referee appointed by the Lieutenant-Governor in Council and who shall be called the "Official Arbitrator".

Appointment
of Official
Arbitrator.

Rev. Stat.,
c. 243.

(2) The Official Arbitrator shall,

Powers, etc.,
of Official
Arbitrator.

(a) be a judge of a county court or a barrister of at least 10 years standing at the Bar of Ontario;

(b) have all the powers of an official referee under *The Judicature Act* and of an arbitrator under *The Municipal Act* or under *The Arbitration Act*;

powers;
Rev. Stat.,
cc. 190, 243,
20.

(c) be an officer of the Supreme Court;

status;

(d) not act as solicitor or counsel for or against the corporation or for any other municipal corporation;

(e) have all the powers of a judge of the Supreme Court including those relating to the production of books and papers, the amendment of notices for compensation or damage and of all other notices and proceedings, the rectification of errors or omissions, the time and place of taking examinations and views, the assistance of valuers, appraisers, engineers, surveyors or other experts, and as respects all matters incident to the hearing and determination of matters before him or proper for doing complete justice therein between the parties, including the power of awarding costs. R.S.O. 1937, c. 280, s. 1.

other
powers.

2.—(1) The death of the Official Arbitrator or his ceasing to hold office from any cause pending a reference before him, before his award is made, shall not abate the proceedings, but such reference shall be continued and all proceedings therein

Vacancy.

already taken shall be adopted, and an award made therein by his successor in office.

Deputy
Official
Arbitrator.

(2) The Lieutenant-Governor in Council may appoint a Deputy Official Arbitrator and, in case of the illness or absence or inability to act of the Official Arbitrator and during a vacancy in the office, the Deputy Official Arbitrator shall have all the powers and perform all the duties of the Official Arbitrator.

Death of
claimant.

(3) The death of the claimant pending a reference before the Official Arbitrator shall not abate or determine the proceedings already taken before him, but such proceedings already taken may be continued by or against the legal representatives of the deceased, or by or against the person or persons upon whom the estate or interests of the deceased devolves. R.S.O. 1937, c. 280, s. 2.

Commence-
ment of pro-
ceedings.

3. If any person interested in any such claim or question desires that the same should be determined by the Official Arbitrator, he shall give to the clerk of the municipality and to every other person interested seven clear days notice that the same is so referred, specifying therein the nature of the claim or question to be determined, and the amount in controversy, and upon such notice, with proof of the service of it, being filed with him, the Official Arbitrator may proceed to hear and determine the matters so referred to him. R.S.O. 1937, c. 280, s. 3.

When
Official
Arbitrator
to state
reasons in
writing.

4. Where the Official Arbitrator proceeds partly on view or upon any special knowledge or skill possessed by himself he shall put in writing as part of his reasons a statement of such matter sufficiently full to allow the Court of Appeal to determine the weight which should be attached to it. R.S.O. 1937, c. 280, s. 4.

Filing
award and
evidence.

5. The award of the Official Arbitrator and exhibits and the reasons for his decision shall be filed in the office of the registrar of the Court of Appeal, and notice of the filing shall be given forthwith by the Official Arbitrator to the parties who appeared or were represented upon the reference or to their solicitors, and upon the request of any of the parties interested in the inquiry, the notes taken by the shorthand writer, if any, shall be extended by him and, upon payment of his proper fees therefor, shall be filed with the registrar. R.S.O. 1937, c. 280, s. 5.

Fees to be
paid before
award made
public.

6. The award when so filed shall not be made public until all the fees payable to the Official Arbitrator have been paid to him. R.S.O. 1937, c. 280, s. 6.

7. The award may be appealed against to the Court of Appeal in the same manner as the decision of a judge of the Supreme Court sitting in Court is appealed from, and subject to section 360 of *The Municipal Act* shall be binding and conclusive upon all parties to the reference unless appealed from within six weeks after notice that it has been filed. R.S.O. 1937, c. 280, s. 7. Appeal to Court of Appeal.
Rev. Stat., c. 243.

8. The time of any vacation of the Supreme Court shall not be reckoned in the computation of the time for doing any act or taking any proceeding in relation to the appeal. R.S.O. 1937, c. 280, s. 8. Vacation.

9. Where no appeal is taken within the prescribed time, or when an appeal has been disposed of, the exhibits may be delivered out to the parties entitled to them. R.S.O. 1937, c. 280, s. 9. Giving out exhibits when no appeal.

10. Where an action has been brought or is pending, the court or a judge thereof, if of opinion that the relief sought is properly the subject of a proceeding under this Act, on the application of either party or otherwise, may at any stage of the action order it to be transferred to the Official Arbitrator on such terms as to costs and otherwise as may be deemed proper, and the Official Arbitrator shall thereupon give such directions as to the prosecution of the claim before him as he may deem just and convenient, and subject to the provisions, if any, in respect thereto in the order of transfer, the costs of the action shall be in his discretion. R.S.O. 1937, c. 280, s. 10. Transferring actions to Arbitrator.

11. Costs awarded by the Official Arbitrator shall be taxed by one of the taxing officers of the Supreme Court, and shall be taxed upon such scale and be payable to such parties as may be determined by the Official Arbitrator. R.S.O. 1937, c. 280, s. 11. How costs to be taxed.

12.—(1) The Official Arbitrator shall be entitled to be paid for his services while sitting upon any arbitration at the rate of \$30 per day, or a proportionate part thereof where a sittings upon any one day occupies less than a whole day, and for a meeting, at which the reference is not proceeded with but a postponement is made at the request of any party, \$10. Fees.

(2) One-half of such fees shall be payable by each of the parties to the reference if only two parties are interested, and proportionately by all parties interested if a larger number than two are so interested; but the Official Arbitrator shall have power to award that any sum so paid or payable may By whom payable.

be recoverable by any one or more of the parties from any other or others of them, and such fees shall be recoverable as any other costs of the arbitration.

Recovery
of fees.

(3) If the award is not taken up within 30 days after service upon the parties of the notice of filing thereof, the fees and expenses of the Official Arbitrator shall be recoverable by action from any one or more of the parties to the arbitration.

Idem.

(4) Nothing herein shall prejudicially affect the right of the Official Arbitrator to recover his fees or expenses in any way in which they may now be recovered. R.S.O. 1937, c. 280, s. 12.

Appointment
of assessor.

13.—(1) The Lieutenant-Governor in Council may appoint for such municipality an assessor of sound judgment, experience and knowledge in and as to matters relating to real property within the municipality to sit with the Official Arbitrator.

In what
cases to be
called in.

(2) The assessor shall be called upon by the Official Arbitrator,

(a) upon the request of all the parties to an arbitration, and at any stage of the proceedings; or

(b) where the Official Arbitrator desires his advice and assistance, and no party to the proceedings objects thereto at the time he is so called upon.

Function of
assessor.

(3) The assessor shall not make or join in the award, but shall otherwise give the Official Arbitrator such assistance as he may require.

Assessor's
fee.

(4) The assessor shall be entitled for his services while sitting on an arbitration to be paid at the rate of \$10 per day, or a proportionate part thereof where a sitting on any one day occupies less than a whole day, and for a meeting where the reference is not proceeded with but a postponement is made at the request of any party, \$2.

How
payable.

(5) The fees of the assessor shall be payable by the same parties and in the same proportion and manner and shall be recoverable in the same way as those of the arbitrator, and shall be treated in all respects in the same manner as the fees of the arbitrator as to the ultimate payment thereof and as to the manner of such payment. R.S.O. 1937, c. 280, s. 13.

Power to
make rules
and tariff.

14. Subject to the approval of the Lieutenant-Governor in Council, the Rules Committee shall have the same power to make rules with respect to matters and proceedings under this Act and tariffs of fees as it has in respect of proceedings under *The Judicature Act*. R.S.O. 1937, c. 280, s. 14; 1941, c. 55, s. 21.

Rev. Stat.,
c. 190.

15.—(1) This Act shall extend and apply to the County of York and to the Township of York, and to any municipality the council of which by by-law declares that it is desirable that the municipality be brought within the provisions of this Act, and in such case this Act shall be read as though it had been expressly applied to such municipality by the terms thereof. ^{Application of Act.}

(2) Where the council of any such municipality has by by-law so declared, or hereafter so declares, an official arbitrator may be appointed for the municipality by the Lieutenant-Governor in Council, and he shall have and may exercise within the municipality all the powers conferred upon the Official Arbitrator by this Act. ^{Appointment in such cases.}

(3) The council of a municipality which has passed a by-law under subsection 1 may repeal it at any time after the expiration of six months from the passing of the by-law, and upon such repeal this Act shall cease to apply or be in force in the municipality. ^{Repeal of by-law bringing Act into force.} R.S.O. 1937, c. 280, s. 15.

CHAPTER 245

The Municipal Corporations Quieting Orders Act**1. In this Act,**Interpre-
tation.

- (a) "Board" means Ontario Municipal Board;
- (b) "Department" means Department of Municipal Affairs;
- (c) "municipality" means a county, city, town, village or township;
- (d) "quieting order" means an order establishing the legal existence and corporate status of a municipality and its proper area and boundaries in order to quiet doubts affecting the same. 1949, c. 62, s. 1.

2.—(1) Upon the application of the council of a municipality, the Board may make a quieting order respecting the municipality.

Power to
make
quieting
order.

(2) A quieting order may be made retroactive in its effect and operation for the purpose and to the extent provided therein, except that it shall not affect or prejudice the rights of any person in any action, litigation or other proceeding pending at the time when the order is made. 1949, c. 62, s. 2.

Retroactive
effect of
order.

3.—(1) Where the council of a municipality is aware of any doubt affecting the legal existence or corporate status or proper area and boundaries of the municipality, it may apply to the Board for a quieting order.

Application
for quieting
order.

(2) The application shall be in duplicate and shall specify the nature and cause of the doubt which exists and set forth full particulars of all evidence and proofs that are known respecting the existence and status and the area and boundaries of the municipality.

Particulars
of applica-
tion.

(3) Upon receipt of an application for a quieting order,

- (a) the secretary of the Board shall transmit one copy to the Department; and
- (b) the Board shall fix a day, time and place for hearing the application and shall direct the applicant as to

Duplicate
copy for
Department.Appointment
for hearing
and notice
thereof.

the notice of the application and of the appointment for hearing to be published by it and as to any special notice thereof it shall give to any other municipality and to any person. 1949, c. 62, s. 3.

Objections
to be heard.

4. The Board shall hear any other municipality and any person present or represented at the hearing and take into consideration any objections to the application. 1949, c. 62, s. 4.

Effect of
quieting
order.

5. Every quieting order made by the Board shall according to its tenor be valid and binding for all purposes and upon all municipalities and persons. 1949, c. 62, s. 5.

Publication
of quieting
orders.

6. Forthwith after the issue of a quieting order, the applicant shall,

- (a) publish the order locally in such manner as the Board may direct;
- (b) publish a copy in *The Ontario Gazette*;
- (c) file a certified copy with the Department; and
- (d) register a certified copy in the proper registry office, as in the case of an order of the Board registered under section 73 of *The Registry Act*, which section shall apply. 1949, c. 62, s. 6.

Rev. Stat.,
c. 336.

Powers of
Department.

7. The Department may,

- (a) authorize the board of trustees of an improvement district or of a police village to apply under this Act for a quieting order with respect to the improvement district or police village, as the case may be, and for such purpose all the provisions of this Act shall, *mutatis mutandis*, apply;
- (b) require the council of any municipality to apply for a quieting order with respect to the municipality and upon neglect or failure of the council to apply for the order within 60 days after being so required, the Department may on behalf of the council and in the name of the municipality apply to the Board for the quieting order. 1949, c. 62, s. 7.

Fee of
Board.

8. The fee payable upon an application under this Act shall be fixed by the Board, but shall not exceed \$10. 1949, c. 62, s. 8.

CHAPTER 246

The Municipal Drainage Act

INTERPRETATION

1. In this Act,

Interpre-
tation.

- (a) "construction" means the original opening, making, excavating or completing of drainage work;
- (b) "county" includes provisional judicial district;
- (c) "county court" includes district court;
- (d) "court of revision" means a court of revision constituted under this Act for the trial of complaints respecting assessments for drainage work;
- (e) "initiating municipality" means the municipality undertaking the construction of any drainage work to which this Act applies;
- (f) "judge" means the senior, junior, or acting judge of the county or district court of the county or district in which the municipality assessing lands or roads for a drainage work is situate, but does not include a deputy judge;
- (g) "maintenance" means the preservation and keeping in repair of a drainage work;
- (h) "municipality" does not include a county, except as an owner within the meaning of clause *i*;
- (i) "owner" or "actual owner" includes the executor or administrator of an owner's estate, the guardian of an infant owner, any person entitled to sell or convey the land, an agent of an owner under a general power of attorney or under a power of attorney empowering him to deal with lands, and a municipal corporation as regards highways and bridges under its jurisdiction;
- (j) "public utility" has the same meaning as in *The Ontario Municipal Board Act*, Rev. Stat.,
o. 262.
- (k) "referee" means the referee for the purpose of the drainage laws of Ontario as hereinafter provided;
- (l) "reference" means a reference or transfer to the referee under the provisions of this Act;

- (m) "relief" means relieving from liability for causing water to flow upon and injure lands or roads;
- (n) "sufficient outlet" means the safe discharge of water at a point where it will do no injury to lands or roads. R.S.O. 1937, c. 278, s. 1.

CONSTRUCTION OF DRAINAGE WORK

Undertaking
of works
on petition.

2.—(1) Upon the petition of the majority in number of the resident and non-resident persons, exclusive of farmers' sons not actual owners, as shown by the last revised assessment roll to be the owners of the lands to be benefited in any area as described in the petition within any township, village, town or city, to the municipal council thereof, for the drainage of the area as described in the petition by means of drainage work, that is to say, the construction of a drain or drains, the deepening, straightening, widening, clearing of obstructions, or otherwise improving of any stream, creek or watercourse, the lowering of the waters of any lake or pond, or by any or all of such means as may be set forth in the petition, the council may procure an engineer or Ontario land surveyor to make an examination of the area to be drained, the stream, creek, or watercourse to be deepened, straightened, widened, cleared of obstructions or otherwise improved or the lake or pond the waters of which are to be lowered, according to the prayer of the petition, and to prepare a report, plans, specifications and estimates of the drainage work, and to make an assessment of the lands and roads within the area to be benefited and of any other lands and roads liable to be assessed as hereinafter provided, stating as nearly as may be, in his opinion, the proportion of the cost of the work to be paid by every road and lot or portion of lot for benefit and for outlet liability and relief from injuring liability as hereinafter defined.

Initiating
proceedings
for drainage
of highway.

Rev. Stat.,
c. 166.

(2) The provisions of this Act shall apply and extend to any case where the drainage work is required for the drainage of a road or portion thereof, and in any such case the municipal council may proceed upon a petition describing the road or part of road to be drained, and signed by the engineer or road superintendent appointed under *The Highway Improvement Act* by the department, county, commission or township having control over the road, and where the road forms the boundary between two municipalities, the council of either municipality may proceed on such petition.

Where
pumping,
embanking
required.

(3) The provisions of this Act shall apply and extend to every case where the drainage work can only be effectually executed by embanking, pumping or other mechanical operation, but in every such case the municipal council shall not

proceed except upon the petition of at least two-thirds of the owners of lands within the area described according to subsection 1.

(4) If from the lands or roads of any municipality, company or individual, water is by any means caused to flow upon and injure the lands or roads of any other municipality, company or individual, the lands and roads from which the water is so caused to flow may, under all the formalities and powers contained herein, except the petition, be assessed and charged for the construction and maintenance of the drainage work required for relieving the injured lands or roads from such water, and to the extent of the cost of the work necessary for their relief as may be determined by the engineer or surveyor, court of revision, county judge or referee, and such assessment may be termed "injuring liability". When lands may be assessed for "injuring liability".

(5) The lands and roads of any municipality, company or individual using any drainage work as an outlet, or for which when the work is constructed an improved outlet is thereby provided, either directly or through the medium of any other drainage work or of a swale, ravine, creek or watercourse, may, under all the formalities and powers contained herein, except the petition, be assessed and charged for the construction and maintenance of the drainage work so used as an outlet or an improved outlet, and to the extent of the cost of the work necessary for any such outlet, as may be determined by the engineer or surveyor, court of revision, county judge or referee, and such assessment may be termed "outlet liability". When lands may be assessed for "outlet liability".

(6) The owners of the lands and roads made liable to assessment under subsection 4 or 5 shall neither count for nor against the petition required by subsection 1 unless within the area therein described. Certain owners not to count for or against petition.

(7) The assessment for injuring liability and outlet liability provided for in subsections 4 and 5 shall be based upon the volume, and shall also have regard to the speed of the water artificially caused to flow upon the injured lands or into the drainage work from the lands and roads liable for such assessments. Basis of assessment.

(8) Any lands or roads from which the flow of surface water is by any drainage work cut off, may be assessed and charged for same by the engineer or surveyor of the municipality doing the work, and such assessment shall be classified and scheduled as benefit. R.S.O. 1937, c. 278, s. 2. Benefit by cut off.

PETITION FOR CONSTRUCTION

3. The petition shall be according to Form 1, or to the like effect. R.S.O. 1937, c. 278, s. 3. Form of petition.

DUTIES OF ENGINEER OR SURVEYOR

Oath of
engineer or
surveyor.

4.—(1) Any engineer or surveyor employed or appointed by a municipal council to perform any work under this Act, including the assessment of real property for the purpose of drainage work, shall before entering upon his duty take and subscribe the following oath, and shall leave it with, or send it by registered letter post to the clerk of the municipality:

In the matter of the proposed drainage work (*or as the case may be*) in the township of (*name*).

I (*name in full*) of the Town of in the County of, Engineer (*or Surveyor*) make oath and say (*or do solemnly declare and affirm*):

That I will, to the best of my skill, knowledge, judgment and ability, honestly and faithfully and without fear of, favour to, or prejudice against any owner or owners, or other person or persons whomsoever, perform the duty assigned to me in connection with the above work and will make a true report thereon.

Sworn before me at the of
in the County of, this
day of, A.D. 19....

A Commissioner, etc.

Failure to
take oath
not to
invalidate.

(2) The failure of the engineer or surveyor to take the oath shall not invalidate any proceedings taken under this Act. R.S.O. 1937, c. 278, s. 4.

Assessment
of land
affected.

5.—(1) The engineer or surveyor, in assessing the lands to be benefited or otherwise liable for assessment under this Act, need not confine his assessment to the part of the lot actually affected, but he shall nevertheless in his report show the approximate number of acres contained in the part affected by his assessment. R.S.O. 1937, c. 278, s. 5 (1).

Subdivision
of parcel
assessed.

(2) Where a parcel of land has been assessed by the engineer or surveyor, and one or more parts of that parcel is sold after the final revision of the assessment, the clerk of the municipality in which the parcel is situate shall direct the engineer or surveyor in writing to apportion the assessment charged against the parcel among the parts into which the parcel is divided.

Notice to
owners.

(3) The clerk shall send a copy of the direction by registered post to the owners of the parts into which the parcel is divided.

Apportion-
ment of
assessment.

(4) The engineer or surveyor in making the apportionment shall have regard to the part of the parcel affected by the drainage work, and shall make the apportionment in writing and file it with the clerk who shall attach it to the original assessment, and the apportionment shall be binding upon the lands assessed and the rate shall thereafter be levied and collected accordingly. 1949, c. 63, s. 1 (1).

(5) The costs of the engineer shall be borne and paid by the parties in the manner which may be fixed or apportioned by the engineer. R.S.O. 1937, c. 278, s. 5 (3). Costs of engineer.

(6) Where an owner of lands not assessed for a drainage work subsequently connects the lands with the work for the purpose of drainage, the engineer or surveyor shall assess the owner for a just proportion of the work, regard being had to any compensation paid such owner in respect of the work, and thereupon every owner assessed for the work shall be given a proportionate reduction in the charges assessed against his land, but no owner shall connect such lands to the work without the approval of the council of the municipality. 1944, c. 40, s. 1 (2); 1949, c. 63, s. 1 (2). Subsequent connections with drainage work.

6. The assessment upon any lands or roads for any drainage work may be shown by the engineer or surveyor placing sums of money opposite the lands or roads, and it shall not be necessary to insert the fractional part of the whole cost to be borne by the lands or roads. R.S.O. 1937, c. 278, s. 6. Assessment may be shown in money.

7. The engineer or surveyor, when required by the council, shall make plans, specifications and detailed estimates of the drainage work to be constructed and charge the same to the work as part of its cost. R.S.O. 1937, c. 278, s. 7. Plans, specifications and estimates.

8.—(1) The engineer or surveyor shall in his report and estimates provide for the construction, enlargement or other improvement of any bridges or culverts throughout the course of the drainage work rendered necessary by the work crossing any public highway or the travelled portion thereof, and he shall in his assessment apportion the cost of bridges and culverts between the drainage work and the municipality or municipalities having jurisdiction over such public highway as to him may seem just. Bridges and culverts on highways.

(2) Any municipality may pass a general by-law for the purpose of assuming, as a charge upon the general funds of the municipality, the whole or such portion as the by-law may determine of the construction and maintenance of all bridges or culverts rendered necessary by any drainage work crossing public highways, or portions thereof within the municipality, and when such a by-law has been passed, it shall not be repealed, except with the permission of the referee, and so long as the by-law remains unrepealed, the engineer or surveyor shall, in his assessment, apportion the cost of such bridges and culverts in accordance with the provision of the by-law. General by-law as to assessments for culverts, bridges on highways.

(3) The engineer or surveyor shall also in his report and estimates provide for the construction or enlargement of Construction of access bridges.

bridges required to afford access from the lands of owners to the travelled portion of any public highway, and he shall include the cost of the construction or enlargement of such bridges in his assessment for the construction of the drainage work, and they shall, for the purposes of construction and maintenance, be deemed part of the drainage work, and the maintenance thereof may include any enlargement from time to time rendered necessary by the drainage work.

Farm
bridges.

(4) The engineer or surveyor shall in the same manner provide for the construction or enlargement of bridges and water gate rendered necessary by the drainage work upon the lands of any owner, and shall fix the value of the construction or enlargement thereof to be paid to the respective owners entitled thereto, but the land assessed for the drainage work shall not nor shall any municipal corporation be liable for keeping such bridges and water gate in repair, and should the engineer or any surveyor deem it proper that any of such bridges should be constructed and maintained by the drainage scheme, he may so provide by his report.

Allowance
for sever-
ance.

(5) If the engineer or surveyor thinks it expedient to make an allowance for severance to the owner instead of providing for the construction, enlargement or other improvement of a bridge as provided by subsections 3 and 4, he shall in his report provide for payment to the owner of such amount as he may think just by way of allowance for severance, and shall in his assessment apportion such amount as he may think fit.

Allowance
for private
ditches.

(6) The engineer or surveyor shall likewise in his report estimate and allow in money to any person, company or corporation the value to the drainage work of any private ditch or drain, or of any ditch constructed under any Act respecting ditches or watercourses, which may be incorporated in whole or in part into the drainage work or used therewith.

Disposal of
material
taken from
drainage
work.

(7) The engineer or surveyor shall further in his report determine in what manner the material taken from any drainage work, either in the construction or repair thereof, shall be disposed of, and the amount to be paid to the respective persons entitled for damages to lands and crops, if any, occasioned thereby, and shall include such sums in his estimates of the cost of the drainage work or the repairs.

Allowance
for right
of way,
pumping
works.

(8) The engineer or surveyor shall likewise in his report estimate and allow in money to any person, company or corporation the value to the drainage work of any land belonging to such person, company or corporation which it is necessary to use for the purpose of the construction of a drainage work, or as a site for a pumping station to be used in connection with a drainage work, or as a means of access to any such pumping

station; provided, however, that in the latter case the engineer or surveyor may allow for right of way only if in his opinion such right of way is sufficient for the purposes of the drainage work.

(9) Where, in the opinion of the engineer or surveyor, the cost of continuing the drainage work to a point where the discharge of water will do no injury to lands and roads, or the cost of constructing the drainage work with sufficient capacity to carry off the water, will exceed the amount of injury likely to be caused to low-lying lands along the course of, or below the termination of the work, instead of continuing the work to such a point, or constructing it of such capacity, he may include in his estimate of the cost of the drainage work a sufficient sum to compensate the owners of such low-lying lands for any injuries they may sustain from the drainage work, and he shall in his report determine the amount to be paid to the respective owners of low-lying lands in respect of such injuries.

Assessment of compensation for damage to low lands instead of constructing drain to an outlet.

(10) Any owner of lands affected by the drainage work, if dissatisfied with the report of the engineer in respect of any of the provisions of this section, may appeal therefrom to the referee, and in every such case the notice of appeal shall be served upon the head of the council of the initiating municipality and the clerk thereof within 30 days after the adoption of the engineer's report by the council, and the referee may hear and determine the appeal in a summary manner either on his own view of the premises and after hearing the parties and if he sees fit, their witnesses, or he may direct that the further proceedings on such appeal shall be as hereinafter provided in other cases of appeals to the referee, and the referee on an appeal under this subsection may make such order as to him seems just, and his decision shall be final.

Appeal to referee.

(11) Any owner of lands affected by the drainage work may appeal from the report of the engineer to the referee upon the ground that the benefits to be derived from the drainage work are not commensurate with the estimated cost thereof, and in every such case the notice of appeal shall be served upon the head of the council of the initiating municipality and the clerk thereof within 30 days after the adoption of the engineer's report by the council, and the referee may hear and determine the appeal in a summary manner either on his own view of the area affected by the drainage work or any part or parts thereof and after hearing the parties and if he sees fit, their witnesses, or he may direct that the further proceedings on such appeal shall be as hereinafter provided in other cases of appeals to the referee, and the referee on an appeal under this subsection may make such order as to him seems just, and his decision shall be final.

Appeal to referee on ground of excessive cost.

Security for
costs of
appeal.

(12) No appeal under subsection 11 shall be proceeded with until the appellant has given security in the sum of \$100 to be deposited in money with the clerk of the initiating municipality that he will effectually prosecute the appeal and pay such costs as may be awarded by the referee if his appeal is dismissed. R.S.O. 1937, c. 278, s. 8 (1-12).

Appeal by
conservation
authority
having juris-
diction.
Rev. Stat.,
c. 62.

(13) Where the proposed drainage work is a work of construction and is to be undertaken within a watershed over which a conservation authority established under *The Conservation Authorities Act* has jurisdiction, the conservation authority may appeal from the report of the engineer to the referee upon the ground that the work will injuriously affect a scheme undertaken by the authority under the said Act, and the provisions of subsection 11 respecting the notice of appeal, the powers of the referee and the decision of the referee shall apply to any such appeal. 1949, c. 63, s. 2 (1), *part*.

Notice to
persons
assessed and
to owners
for whom
compensa-
tion assessed.

(14) Forthwith upon the filing of the engineer's report with the clerk of the municipality, the clerk shall, by letter or postal card, notify the parties assessed of such assessment and the amount thereof, and where more than one municipality is interested in the proposed work, the clerk of such other municipality or municipalities shall forthwith, upon the filing of a copy of the engineer's report in their office, notify the parties assessed of such assessment and the amount thereof, and he shall also in like manner notify each of the owners of lands in respect of which the report provides for compensation of the date of filing the report, the amount awarded to such owner for compensation and the date of the council meeting at which the report will be read and considered. R.S.O. 1937, c. 278, s. 8 (13).

Notice to
conservation
authority
having
jurisdiction.

(15) Where the proposed drainage work is to be undertaken within a watershed over which a conservation authority established under *The Conservation Authorities Act* has jurisdiction, the clerk shall notify the secretary-treasurer of the authority in writing of the location and estimated cost of the work and of the date of the council meeting at which the report will be read and considered. 1949, c. 63, s. 2 (1), *part*.

Engineer to
report on
bench
marks.

(16) The engineer or surveyor shall also in his report, plans, specifications and profiles sufficiently record the descriptions, locations and elevations of every bench mark or permanent level by which a drainage work is to be governed.

Time for
filing report.

(17) The report of the engineer shall be filed within six months after the filing of the petition, or within such further time as the council may in its discretion from time to time appoint, and the council may adopt the report of the engineer if it sees fit notwithstanding that such report is made after

the six months herein fixed for making the same or after any extended period fixed by the council under this subsection, but if the engineer is unable to file his report within the time specified, the referee on the application of the engineer for an extension of time, may extend the time for the filing of the report, and shall notify the council of such extension.

(18) If the engineer neglects to make his report within the time limited by subsection 17, or within the time fixed by the council or referee under that subsection, he shall forfeit all claim for compensation for the work done by him upon the drain, and the council may employ some other engineer who shall have the same duties and powers as if originally appointed and employed.

If engineer neglects to do work, council may appoint another.

(19) A by-law passed by the council of any municipality for the construction of any drainage work under this Act, upon the report of the engineer, shall not be quashed or declared void or illegal by reason only that the report of the engineer has not been filed within six months after the filing of the petition provided for in this Act, or within the extended period provided for in subsection 17. R.S.O. 1937, c. 278, s. 8 (14-17).

By-law not to be invalid by reason of report not being filed within six months.

(20) Where a drainage work or a part of a drainage work is to be constructed, repaired, improved or maintained upon, along, adjoining, under or across the lands, permanent way, transmission lines, power lines, wires, conduits or other permanent property of a public utility, the public utility shall have the option of constructing, repairing, improving or maintaining such work or part.

Public utility may construct drainage work.

(21) In the event of the public utility not exercising the option and not completing such work or part within a reasonable time and without unnecessary delay, such work or part may be completed in the same manner and under the same authority as any other part of the work.

Non-exercise of option.

(22) In addition to all other sums lawfully assessed against the property of the public utility under this Act, and even if the public utility is not otherwise assessable under this Act, the public utility shall be assessed for and shall pay all the increase of cost of such work or part, caused by the construction and operation of the public utility.

Excess of cost, how borne.

(23) Where the public utility is to be assessed for the increase of cost of such work or part, caused by the construction and operation of the public utility, the council initiating the work shall serve the public utility with a copy of the report, plans and specifications, assessments or other estimates of the engineer or surveyor in connection with the work.

Copy of report, etc., to public utility.

Appeal by
utility to
referee.

(24) The public utility so served shall, at any time within three weeks after such service, have a right to appeal to the referee upon any question arising in connection with the work or part that is to be completed upon, along, adjoining, under or across its property.

Order of
referee.

(25) Upon an appeal under subsection 24, the referee shall hear and adjudicate upon all questions raised in the notice of appeal, may amend the report appealed from, and may make such order in the premises and as to the costs of the appeal as may be deemed just. 1949, c. 63, s. 2 (2).

Power to
plant
stakes, etc.

9.—(1) The engineer and his assistants when engaged in the performance of their duties during or after the examination of the locality, may pass over, measure along, ascertain the bearings of any line, plant the stakes which he deems necessary for the performance of the work and take levels on the land of any person.

Engineer to
establish
bench
marks.

(2) The engineer or surveyor in making his survey shall establish sufficient bench marks or permanent levels by which a drainage work may be governed.

Penalty for
interfer-
ence with
work or
bench marks
of engineer.

(3) Any person who interferes with or obstructs the engineer or his assistants in the exercise of the powers conferred by subsection 1 or interferes with, removes or destroys any bench mark or permanent level mark established under subsection 2 shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100. R.S.O. 1937, c. 278, s. 9.

Spreading
earth and
removing
timber on
road allow-
ances.

10. When a drainage work is to be constructed on or along a road allowance the engineer or surveyor shall, upon the application of the municipal council controlling the road allowance, place in his estimate of the cost of the work a sum sufficient to close-chop, or grub and clear not less than 12 feet of the middle of the road allowance, if required, and to spread thereon the earth to be taken from the work, and shall charge the cost thereof to the municipality, together with its proportion of the cost of the drainage work. R.S.O. 1937, c. 278, s. 10.

COVERING DRAINAGE WORK

Report on
covering
drains.

11. Where the engineer or surveyor reports in favour of covering the whole or any part of a drainage work constructed under this Act, he shall determine and state in his report the size and capacity thereof and also the material to be used in its construction, and all the provisions of this Act shall apply thereto in the same manner and to the same extent as to an

uncovered or open drainage work, but in no case shall the improvement of a creek, stream or natural watercourse be made into a covered drainage work unless it provides capacity for all the surface water from lands and roads draining naturally towards and into it, as well as for all the waters from all the lands assessed for the drainage work. R.S.O. 1937, c. 278, s. 11.

DISTINGUISHING ASSESSMENTS

12.—(1) The engineer or surveyor shall, in his report, assess for benefit, outlet liability and injuring liability, and shall also in his assessment schedule insert the sum charged for each opposite the land and roads liable therefor respectively and in separate columns. Engineer to distinguish assessments.

(2) In fixing the sum to be assessed upon any lands or roads the engineer or surveyor may take into consideration any prior assessment on the same lands or roads for drainage work and repairs and make such allowance or deduction therefor as may seem just, and he shall, in his report, state the allowance made by him in respect thereof. R.S.O. 1937, c. 278, s. 12. Prior assessments to be taken into consideration.

13. The engineer or surveyor shall determine and report to the council of the municipality by which he was employed, whether the drainage work shall be constructed and maintained solely at the expense of such municipality and the lands assessed therein, or at the expense of all the municipalities interested and the lands therein assessed, and in what proportions. R.S.O. 1937, c. 278, s. 13. Engineer to report, if any other municipalities are interested and how.

14. Where the engineer or surveyor deems it equitable that the expense of maintenance of a drainage work be assessed upon a basis different from that upon which the expense of its construction is to be assessed, he shall determine and in a separate assessment schedule report the basis upon which the expense of maintenance of the whole work or of any portion or portions thereof shall be assessed. 1938, c. 24, s. 2. Variations in assessments for maintenance.

FILING REPORT

15. As soon as the engineer or surveyor has completed his report, plans, specifications, assessments and estimates, he shall file the same with the clerk of the municipality by which he was employed. R.S.O. 1937, c. 278, s. 14. Engineer to file report.

16.—(1) Any engineer or surveyor employed or appointed to perform any work under this Act shall, if required so to do by the council by which he was engaged, send in his accounts to such municipalities for his services, under oath, giving Engineer or surveyor to give detailed accounts of service under oath.

detailed information as to the number of days occupied in superintending the drainage work, the number of days engaged in laying out the work, and the number of days engaged in the office making plans and preparing his report, also the number of days on which he was engaged in making assessments and inspecting the work, showing the number of hours occupied in each day, and the account shall also set out whether the work was performed on the works or in the office, and whether the time so occupied was the time of the engineer himself or that of a clerk or assistant.

Audit of
account.

(2) The account, upon the written request of the municipal council or of any person assessed, to be filed with the clerk of the municipality, shall be audited by the judge free of charge.

Appoint-
ment to
proceed.

(3) The clerk shall deliver the account to the judge, who shall appoint a time and place at which he will proceed with the audit.

Notice.

(4) The clerk shall give at least two days notice of the audit to the engineer or surveyor and the head of the municipality, as well as to any person requiring the audit.

Procedure
on audit.

(5) At the time and place named in the appointment the judge shall audit the account, and may disallow any charges which he may deem unreasonable, and shall certify thereon the amount to which, in his opinion, the engineer or surveyor is entitled, and the amount disallowed shall not be recoverable by the engineer or surveyor. R.S.O. 1937, c. 278, s. 15.

NOTICE TO PERSONS ASSESSED

Clerk to
notify
parties
assessed.

17. The clerk of the municipality shall notify all parties assessed within the area described in the petition, by mailing to the owner of every parcel of land assessed therein for the drainage work, a circular or postal card upon which shall be stated the date of filing the report, the name or other general designation of the drainage work, its estimated cost, the owner's land and its assessment, distinguishing benefit, outlet liability and injuring liability, and the date of the council meeting at which the report will be read and considered, which shall not be less than 10 days after the mailing of the last of such circulars or postal cards, and the determination of the council as to the sufficiency of notice or otherwise shall be final and conclusive. R.S.O. 1937, c. 278, s. 16.

Proceed-
ings at
meeting for
considera-
tion of
report.

CONSIDERATION OF REPORT

18. The municipal council shall at the meeting mentioned in such notice, immediately after dealing with the minutes of

its previous meeting, cause the report to be read by the clerk to all the ratepayers in attendance, and shall give an opportunity to any person who has signed the petition to withdraw from it by putting his withdrawal in writing, signing the same and filing it with the clerk, and shall also give those present who have not signed the petition an opportunity so to do, and should any of the roads of the municipality be assessed, the council may by resolution authorize the head or acting head of the municipality to sign the petition for the municipality, and such signature shall count as that of one person benefited in favour of the petition. R.S.O. 1937, c. 278, s. 17.

19. The council at any time before the final passing of the by-law, if it appears that there are or may be errors in the report or assessment of the engineer or that for any other reason the report or assessment should be reconsidered, may refer the report back to him for re-consideration, and the engineer may thereupon re-consider his report and assessment and shall report to the council, and the report shall have the same effect and shall be dealt with in the same manner and the proceedings thereon shall be the same as upon the original report or assessment, and it shall not be necessary that the engineer shall make any further oath or declaration. R.S.O. 1937, c. 278, s. 18.

EFFECT OF WITHDRAWAL FROM PETITION

20. Should the petition at the close of such meeting of the council contain the names of the majority of the persons shown as aforesaid to be owners benefited within the area described in such petition, the council may proceed to adopt the report and pass a by-law authorizing the work, and no person having signed the petition shall, after the adoption of the report, be permitted to withdraw; but if after striking out the names of the persons withdrawing, the names remaining, including the names, if any, added as provided by section 18, do not represent a sufficient number of owners within the area described to comply with section 2, then the persons who have withdrawn from the petition shall on their respective assessments in the report, with one hundred per cent added thereto, together with the other original petitioners on their respective assessments in the report, be, *pro rata*, chargeable with and liable to the municipality for the expenses incurred by the municipality in connection with the petition and report, and the sum with which each of such owners is chargeable shall be entered upon the collector's roll for the municipality against the lands of the person liable, and shall be collected in the same manner as taxes placed on the roll for collection. R.S.O. 1937, c. 278, s. 19.

Certain
by-laws
confirmed.

21. A by-law heretofore or hereafter passed shall not be deemed invalid or illegal by reason only that the petition therefor was not sufficiently signed if such petition was duly signed by a majority in number of the resident and non-resident persons, exclusive of farmers' sons not actual owners, shown by the last revised assessment roll to be the owners of the lands to be benefited in the area described in the petition. R.S.O. 1937, c. 278, s. 20.

BY-LAWS

What by-
laws may be
passed by
council.

22. Should the council of the municipality in which the lands and roads described in the petition lie be of the opinion that the drainage work proposed in the petition, or a portion thereof, would be desirable, the council may pass a by-law or by-laws,

Providing
for work.

1. For providing for the construction of the proposed drainage work or a portion thereof, as the case may be. R.S.O. 1937, c. 278, s. 21, par. 1.

Borrowing
funds.

2. For borrowing on the credit of the municipality the funds necessary for the work, or the portion to be contributed by the initiating municipality when the same is to be constructed at the expense of two or more municipalities, and for issuing the debentures of the municipality to the requisite amount, including the cost of appeal, if any, in sums of not less than \$50 each, and payable within 20 years from date, except in case of pumping and embanking drainage work the debentures for which shall be payable within 30 years from their date, with interest at such rate as the by-law may provide. R.S.O. 1937, c. 278, s. 21, par. 2; 1938, c. 24, s. 3.

Assessing
lands and
roads.

3. For assessing and levying, in the same manner as taxes are levied, upon the lands and roads, including roads held by joint stock companies, railway companies, private individuals, counties or county councils, to be benefited by the work and otherwise liable for assessment under this Act in the municipality passing the by-law, a special rate sufficient for the payment of the principal and interest of the debentures, and for so assessing, levying and collecting the same as other taxes are assessed, levied and collected, in proportion as nearly as may be, to their respective liability to contribute.

Fixing time
for paying
assessment.

4. For regulating the times and manner in which the assessments shall be paid.

Determin-
ing property
to be bene-
fited.

5. For determining what lands and roads will be benefited by or otherwise rendered liable for assessment for the drainage work, and the proportion in which the assessment should be made, subject in every case of complaint by the owner or

any person interested in any lands or roads to appeal as hereinafter provided. R.S.O. 1937, c. 278, s. 21, pars. 3-5.

23. The by-law shall, varying with the circumstances, be according to Form 2 or to the like effect. R.S.O. 1937, c. 278, s. 22.

Form of
by-law.

24.—(1) Before the final passing of the by-law, it shall be published once in every week for four consecutive weeks in a newspaper published in the municipality or in the county town, or in an adjoining or neighbouring municipality, and designated by resolution of the council, with a notice of the time and place of holding the court of revision, and also a notice that any one intending to apply to have the by-law or any part thereof quashed, must, not later than 10 days after the final passing thereof, serve a notice in writing upon the reeve or other head officer and the clerk of the municipality, of his intention to make application for that purpose to the referee during the six weeks next after the final passing of the by-law.

Publication
of by-law
and notice
of sitting of
court of
revision.

(2) The clerk shall furnish the publisher of the newspaper with the names and post office addresses of all persons within the municipality whose lands are assessed for the drainage work, and the publisher shall mail or cause to be mailed to each owner, to such post office address, the first two issues of the newspaper containing the by-law, and the publisher or person mailing the newspapers shall make a statutory declaration of such mailing and file the same with the clerk of the municipality publishing the by-law. R.S.O. 1937, c. 278, s. 23.

Newspapers
to be sent to
each person
assessed.

25. The council may at its option, instead of proceeding under section 24, by resolution direct that a copy of the by-law, the notice of the sitting of the court of revision and notice as to proceedings to quash be sent by registered mail to the last known address of each of the assessed owners or their lessees or the occupants of their lands or the agents of such owners, and a statutory declaration shall be made by the person effecting such service showing the date and manner thereof and the declarant shall file the declaration with the clerk of the municipality. 1944, c. 40, s. 2.

Service by
registered
mail in lieu
of publica-
tion.

26. If no notice of the intention to make application to quash a by-law is served within the time limited for that purpose in the notice attached to the by-law, or where the notice is served, then if the application is not made or is unsuccessful in whole or in part, the by-law, or so much thereof as is not quashed, so far as the same ordains, prescribes or directs anything within the proper competence of the council to or-

If by-law
not quashed
within time
limited.

dain, prescribe or direct, shall, notwithstanding any want of form or substance either in the by-law itself or in the time or manner of passing the same, be a valid by-law. R.S.O. 1937, c. 278, s. 25.

Debentures for separate drainage works may be consolidated.

27.—(1) Where two or more works have been undertaken and the by-laws provided for by section 22 or section 88 have been passed, instead of borrowing the separate sums thereby authorized to be borrowed and issuing debentures therefor, the council by a consolidating by-law may provide for borrowing the aggregate of such separate sums and for issuing one series of debentures therefor.

Particulars of by-law.

(2) A consolidating by-law shall show by recitals or otherwise in respect to which separate by-laws it is passed.

By-law need not provide rate for payment.

(3) It shall not be necessary that a consolidating by-law shall impose any rate to provide for the payment of the debentures issued under it or the interest thereon, but the rates imposed by the separate by-laws shall be levied, collected and applied for that purpose.

Application of ss. 23 to 26.

(4) The provisions of sections 23 to 26 shall not apply to a consolidating by-law passed under this section. R.S.O. 1937, c. 278, s. 26.

COURT OF REVISION

Constitution and Powers

Where council has not more than five members.

28.—(1) If the council of the municipality consists of not more than five members, such five members shall be a court for the revision of the assessments for the drainage work. R.S.O. 1937, c. 278, s. 27.

Where council has more than five members.

(2) If the council consists of more than five members, it shall appoint five of its members to constitute the court of revision. R.S.O. 1937, c. 278, s. 28.

Oath.

29. Every member of the court of revision shall, before entering upon his duties, take and subscribe before the clerk of the municipality the following oath, or affirmation in cases where by law affirmation is allowed:

I,, do solemnly swear (or affirm), that I will to the best of my judgment and ability, and without fear, favour or partiality, honestly decide the appeals to the Court of Revision from the assessments appearing in a by-law (*here set out title of by-law*), which may be brought before me for trial as a member of such Court.

R.S.O. 1937, c. 278, s. 29.

30.—(1) Three members of the court of revision shall constitute a quorum, and the majority of a quorum may decide all questions before the court. Quorum.

(2) No member of the court shall act as a member thereof while any appeal is being heard respecting any lands in which he is directly or indirectly interested, save and except roads and lands under the jurisdiction of the municipal council. Members not to act when interested.
R.S.O. 1937, c. 278, s. 30.

31.—(1) The clerk of the municipality shall be the clerk of the court, and shall record the proceedings thereof and shall issue summonses to witnesses to attend any sittings of the court. Clerk of court.

(2) The summons to any witness issued by the clerk under this section may be in the following form: Form of summons.

You are hereby required to attend and give evidence before the Court of Revision at on the day of, 19...., in the matter of the drainage work (*naming or describing work*) and of the following appeal.

Appellant (*name of*).

A.B.

Clerk of the Township of

(3) The fees payable to any witness on an appeal to the court of revision shall be according to the scale of witness fees in the division court. Witness fees. R.S.O. 1937, c. 278, s. 31.

32. At the time appointed, the court shall meet and try all complaints in regard to owners wrongly assessed or omitted from assessment or assessed at too high or too low an amount, and the court may adjourn from time to time as required. Meeting and adjournments.
R.S.O. 1937, c. 278, s. 32.

33. The evidence of witnesses shall be taken on oath and any member of the court may administer an oath to any party or witness. Evidence. R.S.O. 1937, c. 278, s. 33.

34. If any person summoned to attend the court of revision as a witness fails, without good and sufficient reason, to attend, having been tendered the proper witness fees, he shall incur a penalty of \$20 to be recovered with costs, by and to the use of any person suing for the same, either by suit in the proper division court, or in any way in which penalties incurred under any by-law of the municipality may be recovered. Witness failing to attend when summoned.
R.S.O. 1937, c. 278, s. 34.

Procedure for Trial of Complaints

35. Any owner of land, or, where roads in the municipality are assessed, any ratepayer, complaining of overcharge in the Who may appeal.

assessment of his own land or of any roads of the municipality, or of the undercharge of any other lands or of any road in the municipality, or that lands or roads which should have been assessed have been omitted from the assessment, may personally, or by his agent, give notice in writing to the clerk of the municipality that he considers himself aggrieved for any or all the causes aforesaid. R.S.O. 1937, c. 278, s. 35.

Time for holding court of revision and for appeals thereto.

36. The trial of complaints shall be had in the first instance by and before the court of revision of the municipality in which the lands and roads assessed are situate, and the first sitting of the court shall be held pursuant to notice on some day not earlier than 20 nor later than 30 days from the day on which the by-law was first published, or from the date of completing the services or mailing of a printed copy of the by-law, as the case may be, and notice of the first sitting of the court shall be published or served with the by-law, but the court may adjourn from time to time as occasion may require, and all notices of appeal shall be served on the clerk of the municipality at least 10 days prior to the first sitting of the court; but the court may, though notice of appeal has not been given, by resolution passed at its first sitting, allow an appeal to be heard on such conditions as to giving notice to all persons interested or otherwise as may be just. R.S.O. 1937, c. 278, s. 36.

Form of notice of complaint.

37. If any complaint is made on the ground that any lands or roads have been assessed too low or wrongly omitted from assessment by the engineer or surveyor, the clerk shall give notice of the complaint and the time of the trial to the owner or person interested in such lands, or in the case of roads to the reeve or other head of the municipality; which notice shall be in the form following or to the like effect:

Take notice that you are required to attend before the Court of Revision at on the day of, 19...., in the matter of the following appeal:

Appellant (*name of*).

Subject—That you are assessed too low (*or as the case may be*) for drainage work (*naming the drainage work*).
To J.K.

(Signed)

X.V.,
Clerk

R.S.O. 1937, c. 278, s. 37.

Serving notice.

38. The notice mentioned in section 37 shall be sent by letter addressed to such person at his post office address or at his last known address, at least seven days before the first sitting of the court. R.S.O. 1937, c. 278, s. 38.

39. The clerk of the court shall enter the appeals on a list Entry of appeals. in the order in which they are received by him, and the court shall proceed with the appeals in the order, as nearly as may be, in which they are so entered, but may grant an adjournment or postponement of any appeal. R.S.O. 1937, c. 278, s. 39.

40. Such list may be in the following form:

Form of list of appeals.

Appeals from the assessment of the engineer on
drainage work, to be heard at the Court of Revision to be held at
....., commencing at 10 o'clock in the forenoon on the
..... day of, 19....

Appellant. Omitted or wrongly assessed. Matter complained of.

A.B.....	Self.....	Overcharge for benefit.
C.D.....	Self.....	Overcharge for outlet.
E.F.....	Self.....	Overcharge for injuring.
G.H.....	J.R.....	Undercharge for benefit.
L.M.....	N.O.....	Undercharge for outlet.
P.Q.....	R.S.....	Undercharge for injuring.
T.U.....	V.W.....	Wrongly omitted.
X.Y.....	Self.....	Wrongly assessed.
etc.	etc.	etc.

R.S.O. 1937, c. 278, s. 40.

41. Where any lands or roads have been assessed for the construction or repair of a drainage work, and the same property is afterwards assessed by the engineer or surveyor for the construction or repair of any other drainage work, the court of revision or judge may take into consideration any prior assessment for drainage work on the same property and give such effect thereto as may be just. R.S.O. 1937, c. 278, s. 41. Court of revision may take into consideration prior assessments.

42. When the ground of complaint is that lands or roads are assessed too high, and the evidence adduced satisfies the court of revision or judge that the assessments on such lands or roads should be reduced, but no evidence is given of other lands or roads assessed too low or omitted, the court or judge shall adjourn the hearing of the appeal for a time sufficient to enable the clerk to notify by postal card or letter all persons affected of the date to which the hearing is adjourned, and the clerk shall so notify all persons interested, and unless they appear and show cause against the reduction of the assessment appealed against or the increase of their own, the court or judge may dispose of the matter of appeal in such manner as may be just, and the sum by which the assessment appealed against is reduced, if any, may be distributed *pro rata* over the assessments of its own class or otherwise so as to do justice to all parties. R.S.O. 1937, c. 278, s. 42. Adjournment of court to notify persons affected by alteration of assessment.

43. The clerk shall by registered letter immediately after the close of the court, notify all appellants of the result of Notice of result of appeal.

their appeals and also of the date of the closing of the court of revision. R.S.O. 1937, c. 278, s. 43.

Appeals from Court of Revision

Appeal to
county
judge.

44. An appeal from the court of revision shall lie to the judge, not only against a decision of the court of revision, but also against the omission, neglect or refusal of the court to hear or decide an appeal. R.S.O. 1937, c. 278, s. 44.

Time for
giving notice
of appeal.

45. The person appealing shall, in person or by solicitor or agent, file with the clerk of the municipality within 10 days after the date of the closing of the court of revision, a written notice of his intention to appeal to the judge. R.S.O. 1937, c. 278, s. 45.

Clerk to
notify judge
and judge to
fix time and
place for
hearing
appeals.

46. The clerk shall immediately after the time limited for filing appeals, forward a list of the appeals to the judge, who shall then notify the clerk of the day he appoints for the hearing thereof and shall fix the place for holding the hearing at the town hall or other place of meeting of the council of the municipality from the court of revision of which the appeal is made, unless the judge for the greater convenience of the parties and to save expense fixes some other place for the hearing. R.S.O. 1937, c. 278, s. 46.

Notice to
persons
appealed
against.

47. The clerk shall thereupon give notice to all parties appealed against, in the same manner as is provided for giving notice on a complaint to the court of revision, but in the event of failure by the clerk to give the required notice, or to have the same given within proper time, the judge may direct notice to be given for some subsequent day upon which he may try the appeals. R.S.O. 1937, c. 278, s. 47.

Time for
giving
judgment.

48. At the court so held the judge shall hear the appeals and may adjourn the hearing from time to time, but shall deliver judgment not later than 30 days after the hearing. R.S.O. 1937, c. 278, s. 48.

Clerk of
court.

49.—(1) The clerk of the municipality shall be the clerk of such court, and shall record the proceedings thereof and shall have the like powers as the clerk of a division court as to the issuing of subpoenas to witnesses upon the application of any party to the proceedings or upon an order of the judge, for the attendance of any person as a witness before him.

Witness
fees.

(2) The fees to be allowed to witnesses upon an appeal to the judge under this Act shall be those allowed to witnesses in an action in the division court. R.S.O. 1937, c. 278, s. 49.

50. In all proceedings before the judge as aforesaid, he shall possess all such powers for compelling the attendance of and for the examination on oath of all parties and all other persons whomsoever, and for the production of books, papers and documents, and for the enforcement of his orders, decisions and judgments as belong to or might be exercised by him in the division court or county court. R.S.O. 1937, c. 278, s. 50.

Powers of
judge on
appeal.

Fees and Costs of Appeals

51. The costs of any proceeding before the court of revision, or before the judge as aforesaid, shall be paid or apportioned between the parties in such manner as the court or judge thinks fit, and the same shall be enforced when ordered by the court of revision by a distress warrant under the hand of the clerk and the corporate seal of the municipality, and when ordered by the judge, by execution to be issued as the judge may direct, either from the county court or any division court within the county in which the municipality is situate. R.S.O. 1937, c. 278, s. 51.

Apportion-
ment of
costs, en-
forcing pay-
ment.

52. The costs chargeable or to be awarded in any case may be the costs of witnesses and of procuring their attendance and none other, and the same shall be taxed according to the allowance in the division court for such costs, and in cases where execution issues, the costs thereof as in the like court, and of enforcing the same, may also be collected thereunder. R.S.O. 1937, c. 278, s. 52.

What costs
may be
awarded,
taxation of.

53. The judge shall be entitled to receive from the municipality as his expenses for holding court in any place in the municipality, other than the county town, for the hearing of appeals from the court of revision, \$5 per day and disbursements necessarily incurred. R.S.O. 1937, c. 278, s. 53.

Fees and
expenses
of judge.

54. The decision of the judge shall be final and conclusive. R.S.O. 1937, c. 278, s. 54.

Decision to
be final.

55. Any change in the assessment of the engineer or surveyor made by the court of revision or by the judge in appeal therefrom shall be given effect to by the clerk of the municipality altering the assessments and other parts of the schedule to comply therewith, and the by-law shall, before the final passing thereof, be amended to carry out any changes so made by the court of revision or judge. R.S.O. 1937, c. 278, s. 55.

Clerk to
alter assess-
ments con-
formably
with result
of appeals.

ISSUE OF DEBENTURES

56. Any municipal council issuing debentures under this Act may include the interest on the debentures in the amount

Debentures
may include
principal
and interest
in one sum.

payable, in lieu of the interest being payable annually in respect of each debenture, and any by-law authorizing the issue of debentures for a certain amount and interest, shall be taken to authorize the issue of debentures in accordance with this section, to the same amount with interest added. R.S.O. 1937, c. 278, s. 56.

Payment of assessment before debentures issued.

57. Any owner of lands or roads, including the municipality, assessed for the work, may pay the amount of the assessment against him or them, less the interest, at any time before the debentures are issued, in which case the amount of debentures shall be proportionately reduced. R.S.O. 1937, c. 278, s. 57.

Informalities not to invalidate debentures.

58. No debentures issued under any by-law for the construction or maintenance of any drainage work shall be held to be invalid on account of the same not being expressed in strict accordance with such by-law, provided that the debentures are for sums in the aggregate not exceeding the amount authorized by the by-law. R.S.O. 1937, c. 278, s. 58.

When debentures to be valid and binding to extent of amount advanced.

59. Any debentures issued and sold to provide any sum of money for the construction or repair of any drainage work shall be good in the hands of the purchaser, and be binding upon the corporation issuing them, to the extent of the money actually advanced on the security and interest thereon, according to the provisions of the same, provided no application to quash be made within six weeks from the final passing of the by-law authorizing the issue thereof, notwithstanding that the by-law is afterwards quashed or declared illegal in any proceedings. R.S.O. 1937, c. 278, s. 59.

WORK NOT CONTINUED INTO ANOTHER MUNICIPALITY

Assessment of lands which are benefited.

60.—(1) Where any drainage work is not continued into any other than the initiating municipality, any lands or roads in the initiating municipality or in any other municipality, or roads between two or more municipalities, which will, in the opinion of the engineer or surveyor, be benefited by the work or furnished with an improved outlet or relieved from liability for causing water to flow upon and injure lands or roads, may be assessed for such proportion of the cost of the work as to the engineer or surveyor seems just.

When work not deemed out of initiating municipality.

(2) A drainage work shall not be deemed to be continued into a municipality other than the initiating municipality merely by reason of such drainage work or some part thereof being constructed on a road allowance forming the boundary line between two or more municipalities. R.S.O. 1937, c. 278, s. 60.

61. Where it is necessary to construct a drainage work for the drainage of an area composed of lands or roads lying on either side of a boundary line between two municipalities, the council of either municipality may proceed upon a petition of the majority of the owners of lands or roads within such area in all respects as if such area were entirely within the limits of such municipality. R.S.O. 1937, c. 278, s. 61.

Where area lies on either side of boundary road.

62. Where it is necessary to construct any drainage work or any part thereof on a road allowance used as a boundary line between two or more municipalities, the council of each of the adjoining municipalities may, on the petition of the majority of owners in the area therein described and within its own limits, authorize the same to be constructed on the allowance for road between the municipalities, and may make the road as provided by section 10, and the engineer or surveyor may assess and charge the lands and roads benefited or otherwise liable to assessment in the adjoining municipality or municipalities, as well as the road allowance, with such proportion of the cost of constructing the work as he may deem just. R.S.O. 1937, c. 278, s. 62.

Construction of drainage work on road allowance.

WORK CONTINUED INTO ANOTHER MUNICIPALITY

63. Where it is required to continue any drainage work beyond the limits of the municipality, the engineer or surveyor employed by the council of such municipality may continue the work on or along or across any allowance for road or other boundary between any two or more municipalities, and from any such road allowance or other boundary into or through any municipality until he reaches a sufficient outlet, and in every such case he may assess and charge regardless of municipal boundaries, all lands and roads to be affected by benefit, outlet or relief, with such proportion of the cost of the work as to him may seem just, and in his report thereon he shall estimate separately the cost of the work within each municipality and upon the road allowances or other boundaries. R.S.O. 1937, c. 278, s. 63.

Continuing work beyond the limits of municipality.

64. Wherever any lands or roads in or under the jurisdiction of any adjoining or neighbouring municipality, other than the municipalities into or through which the drainage work passes, are, in the opinion of the engineer or surveyor of the initiating or other municipality doing the work or part thereof, benefited by the drainage work or provided with an improved outlet or relieved from liability for causing water to flow upon and injure lands or roads, he may assess and charge the same as is provided in section 63. R.S.O. 1937, c. 278, s. 64.

Assessing land in neighbouring municipality when work does not enter same.

SETTLING ASSESSMENTS, ETC., BETWEEN MUNICIPALITIES

Council of
initiating
municipality to
notify other
municipalities to
be affected.

65. The council of any initiating municipality shall serve the head of the municipality or municipalities into or through which the work is to be continued, or whose lands or roads are assessed without the drainage work being continued into it, with a copy of the report, plans, specifications, assessments and estimates of the engineer or surveyor on the proposed work, and unless the same are appealed from as hereinafter provided, they shall be binding on each and every corporation whose council is so served, and the council of the initiating municipality shall be entitled, in the event of no appeal, to proceed with the by-law, and authorize and construct or procure the construction of the whole drainage work in accordance therewith. R.S.O. 1937, c. 278, s. 65.

Municipality notified to raise and pay over its proportion of cost.

66. The council of the municipality so served, shall in the same manner as nearly as may be, and with such other provisions as would have been proper if a majority of the owners of the lands to be taxed had petitioned as provided in section 2, pass a by-law or by-laws to raise, and shall raise and pay over to the treasurer of the initiating municipality within four months from such service, the sum that may be named in the report as its proportion of the cost of the drainage work, or, in the event of an appeal from the report, the sum that may be determined by the referee or the Court of Appeal, and such council shall hold the court of revision for the adjustment of assessments upon its own ratepayers in the manner hereinbefore provided. R.S.O. 1937, c. 278, s. 66.

Appeal to referee from report of engineer.

67.—(1) The council of any municipality served as provided by section 65 may, within six weeks after such service upon its head, appeal to the referee from the report, plans, specifications, assessments and estimates of the engineer or surveyor, by serving the head of the council from which they received the copy, and also the head of the council of any other municipality assessed by the engineer or surveyor, with a written notice of appeal setting forth therein the reasons for such appeal.

Grounds of appeal.

(2) The reasons for appeal which shall be set out in such notice may be the following or any of them,

(a) where the assessment against the appealing municipality exceeds \$1,000, or exceeds the estimated cost of the work in the initiating municipality,

(i) that the scheme of the drainage work as it affects the appealing municipality should be abandoned or modified, on grounds to be stated,

- (ii) that the scheme does not provide for a sufficient outlet,
 - (iii) that the course of the drainage work, or any part thereof, should be altered,
 - (iv) that the drainage work should be carried to an outlet in the initiating municipality or elsewhere;
- (b) in any case not otherwise provided for,
- (i) that a petition has been received by the council of the appealing municipality, as provided by section 2, from the majority of the owners within the area described in the petition, praying for the enlargement by the appealing municipality of any part of the drainage work lying within its limits, and thence to an outlet, and that the council is of opinion that such enlargement is desirable to afford drainage facilities for the area described in the petition,
 - (ii) that the appealing municipality objects to paying over its proportion of the cost of the work to the treasurer of the initiating municipality,
 - (iii) that the initiating municipality should not be permitted to do the work within the limits of the appealing municipality,
 - (iv) that the assessment against lands and roads within the limits of the appealing municipality and roads under its jurisdiction is illegal, unjust or excessive. R.S.O. 1937, c. 278, s. 67.

68.—(1) Upon an appeal under section 67 the referee shall ^{Powers of referee on} hear and adjudicate upon all questions raised by the notice ^{appeal.} of appeal, as they may affect any municipality assessed for the drainage work, and he may give to any municipality through or into which the proposed work will be continued, leave to enlarge the same, pursuant to petition in that behalf and according to the report, plans, specifications, assessments and estimates of an engineer appointed by the referee for that purpose, and may make such order in the premises and as to costs already incurred, and as to costs of the appeal as may seem just.

(2) The order of the referee upon such appeal shall be sub- ^{Appeal to} ^{Court of} ^{Appeal.} ject to appeal to the Court of Appeal as in other cases, and the decision of such Court shall be final and conclusive as to all corporations affected thereby.

Abandonment of work by initiating municipality.

(3) The council of the initiating municipality may, by resolution passed within 30 days after the decision of the referee on the appeal to him or in case of an appeal therefrom after the hearing and determination thereof, abandon the proposed drainage work, subject to such terms as to costs and otherwise as to the referee or the Court of Appeal may seem just. R.S.O. 1937, c. 278, s. 68.

AMENDING BY-LAWS

Amendment of by-law when insufficient funds provided.

69.—(1) Any by-law heretofore or hereafter passed by the council of any municipality for the assessment upon the lands and roads liable to contribute for any drainage work and which has been acted upon by the doing of the work in whole or in part, but does not provide sufficient funds to complete the drainage work or the municipality's share of the cost thereof, or does not provide sufficient funds for the redemption of the debentures authorized to be issued thereunder as they become payable, may from time to time be amended by the council, and further debentures may be issued under the amending by-law in order to fully carry out the intention of the original by-law.

When lands and roads in another municipality assessable.

(2) Where in any such case lands and roads in another municipality are assessed for the drainage work, the council of the initiating municipality shall procure an engineer or surveyor to make an examination of the work and to report upon it with an estimate of the cost of completion for which sufficient funds have not been provided under the original by-law, and shall serve the heads of the other municipalities as in the case of the original report, plans, specifications, assessments and estimates, and the council of any municipality so served shall have the same right of appeal to the referee as to the improper expenditure or illegal or other application of the drainage money already raised and shall be subject to the same duty as to raising and paying over its share of the money to be raised, as, in the case of the original by-law, is provided by sections 66 and 67.

Amendment of by-law which provides more than sufficient funds and distribution of surplus.

(3) Any by-law for the assessment upon the lands and roads liable to contribute for any drainage work and acted upon by the completion of the work, which provides more than sufficient funds for the completion of or proper contribution towards the work or for the redemption of the debentures authorized to be issued thereunder as they become payable shall be amended, and if lands and roads in any other municipality are assessed for the drainage work the surplus money shall be divided *pro rata* among the contributing municipalities, and every such surplus until wholly paid out shall be applied by the council of the municipality *pro rata* according to the

assessment in payment of the rates imposed by it for the work in each and every year after the completion of the work, and in case such assessment upon any land has been commuted or anticipated by payment in full, then payment shall be made to the owner of such lands as shown by the last revised roll of the municipality in all respects as if such assessment had not been so commuted or anticipated.

(4) Any by-law passed prior to the 1st day of June, 1894, by the council of any county or union of counties for the assessment of the cost of any drainage work upon the lands and roads liable to contribute therefor which has been acted upon by the doing of the work in whole or in part and which does not provide sufficient funds to complete the drainage work, or the share of the said county or union of counties of the cost thereof, or does not provide sufficient funds for the redemption of the debentures issued under such by-law, as they become payable, may from time to time be amended by the council and further debentures may be issued under the amending by-law in order to fully carry out the intention of the original by-law; provided that every such drainage work shall, when fully completed, be maintained as provided in section 73. R.S.O. 1937, c. 278, s. 69.

Amendment of by-law not providing sufficient funds.

Issuing debentures for completion of county drainage works commenced before passing of 57 V. c. 56.

70. It shall be in the discretion of the council whether an amending by-law passed under any of the provisions of section 69 shall be published or not, and the provisions of *The Municipal Drainage Aid Act* shall apply to any debentures issued under the authority of that section, which have heretofore been or may hereafter be purchased by direction of the Lieutenant-Governor in Council. R.S.O. 1937, c. 278, s. 70.

Publication of amending by-laws.

Rev. Stat., c. 247.

MAINTENANCE OF DRAINAGE WORK

71. Any drainage work constructed under a by-law of any municipality passed in pursuance of this or any former Act relating to the construction of drainage work by local assessment, and which is not continued into any other municipality, shall after the completion thereof be maintained by the initiating municipality,

Maintenance of work not continued into another municipality.

- (a) if no lands or roads in any other municipality are assessed for the construction thereof, then at the expense of the lands and roads in the initiating municipality in any way assessed for such construction, according to the assessment of the engineer or surveyor in his report and assessment for the original construction of the drainage work; or
- (b) if lands or roads in any other municipality or roads between two or more municipalities are in any way

assessed for the construction of the drainage work, then at the expense of all the lands and roads in any way assessed for such construction in the municipalities affected, and in the proportion determined by such report and assessment, or in appeal therefrom by the award of arbitrators or order of the referee,

unless or until such assessment or proportion, as the case may be, is varied or otherwise determined from time to time by the report and assessment of an engineer or surveyor for the maintenance of the drainage work, or in appeal therefrom by the order of the referee. R.S.O. 1937, c. 278, s. 71.

Mainten-
ance of
drainage
work pass-
ing into
another
municipi-
pality.

72.—(1) Any drainage work heretofore constructed under a by-law of a municipality, passed in pursuance of any Act relating to the construction of any drainage work by local assessment, or hereafter constructed under this Act, which is continued into or through more than one municipality, or which is commenced by the initiating municipality on a road allowance adjoining such municipality and is continued thence into the lands of any other municipality shall after the completion thereof be maintained,

- (a) by the initiating municipality from the point of commencement of the work in the municipality or upon such road allowance to the point at which the work enters the lands or roads of another municipality; and
- (b) by the last-mentioned municipality and by every other municipality through or into which the work is continued from the point at which the work enters the lands or roads of the municipality,
 - (i) to an outlet in the municipality or on a road allowance adjoining the municipality, or
 - (ii) to the point at which the work enters the lands or roads of another municipality, as the case may be. R.S.O. 1937, c. 278, s. 72; 1949, c. 63, s. 3, *part*.

Cost of
maintenance.

(2) Such maintenance shall be at the expense of the lands and roads in any way assessed for the construction of the work and in the proportion determined by the engineer or surveyor in his report and assessment for the original construction or in appeal therefrom by the award of the arbitrators or order of the referee until, in the case of each municipality, such provision for maintenance is varied or otherwise determined by an engineer or surveyor in his report and assessment for the maintenance of the work or in appeal therefrom by the order of the referee.

(3) In clauses *a* and *b* of subsection 1, "lands or roads" does not include any road, stream or drainage work forming a boundary between municipalities. 1949, c. 63, s. 3, *part*. Interpretation.

73.—(1) Where a drainage work constructed before the 5th day of May, 1894, under *The Ontario Drainage Act*, being chapter 36 of the Revised Statutes of Ontario, 1887, or any Act in amendment thereof or under a by-law passed by a county council does not extend beyond the limits of one municipality, such drainage work shall be maintained and kept in repair by such municipality at the expense of the lands and roads in any way liable to assessment under the provisions of this Act. Maintenance of drains constructed by government or under county by-laws.

(2) Any drainage work constructed before such day under such authority which continues from the municipality in which the drainage work commences into or through one or more other municipalities, shall be maintained and kept in repair by the municipality in which the drainage work commences from the point of commencement to the point at which the drainage work crosses the boundary line between any road allowance and lands in another municipality, or to the outlet on such road allowance as the case may be, and by every other municipality through or into which the drainage work is continued, from the point at which the same crosses the boundary line between any road allowance and lands in the municipality and enters upon such lands to an outlet in the municipality or on a road allowance adjoining the municipality, or to the point at which the drainage work crosses the boundary line between any road allowance and lands in an adjoining municipality, as the case may be, at the expense of the lands and roads in any way assessed for the construction thereof, and in the proportion determined by the assessors or engineer or surveyor in their assessment roll or report as the case may be, for construction, or in appeal therefrom by the award of arbitrators or order of the referee, unless and until in the case of each municipality such provision for maintenance is varied or otherwise determined by an engineer or surveyor in his report and assessment for the maintenance of the drainage work or in appeal therefrom by the order of the referee. When such drains extend into another municipality.

(3) A drainage work which commences on a road allowance between two municipalities shall, for the purposes of this section, be deemed to commence in the municipality next adjoining that half of the road allowance upon which the drainage work is begun. R.S.O. 1937, c. 278, s. 73. Where work deemed to commence.

74.—(1) The council of any municipality undertaking the repair of any drainage work under sections 71, 72 or 73, shall before commencing the repairs serve upon the head of any Service of by-law on municipality liable for contribution, and appeal.

municipality liable to contribute any portion of the cost of such repairs under this Act, a certified copy of the by-law for undertaking the repairs, as the same is provisionally adopted, which by-law shall recite the description, extent and estimated cost of the work to be done and the amount to be contributed therefor by each municipality affected by the drainage work, and the council of any municipality so served may, within 30 days thereafter, appeal from such by-law to the referee on the ground that the amount assessed against the lands and roads in such municipality is excessive or that the work provided for in the by-law is unnecessary, or that such drainage work has never been completed through the default or neglect of the municipality whose duty it was to do the work, in the manner provided in the case of the construction of the drainage work, and the referee on such appeal may alter, amend or confirm such by-law, or may direct that the same shall not be passed as to him may seem just, and his order upon such appeal shall be subject to appeal to the Court of Appeal, and the decision of that Court shall be final and conclusive as to all corporations affected thereby.

Council
served to
furnish
amount
required.

(2) The council of every municipality served with the provisional by-law shall, within four months after such service, pass a by-law to raise, and shall within that period raise and pay over to the treasurer of the initiating municipality the amount assessed against lands and roads in the municipality, as stated in the provisional by-law or as settled on appeal therefrom by the order of the referee. R.S.O. 1937, c. 278, s. 74.

Varying
original
assessments
on report
for main-
tenance.

75.—(1) The council of any municipality liable for contribution to a drainage work in connection with which conditions have changed or circumstances have arisen such as to justify a variation of the original assessment in respect of the drainage work may apply to the referee upon an application, of which notice has been given to the head of every other municipality interested, for permission to procure the report of an engineer or surveyor varying the original assessment, and in the event of such permission being given such council may procure the report of an engineer or surveyor as aforesaid and pass a by-law adopting the report, but if all the lands and roads assessed or intended to be assessed lie within the limits of one municipality, the council of that municipality may procure and adopt such report without such permission; but no report providing for the variation of an original assessment shall be valid unless the engineer or surveyor has been instructed by a resolution of the council to make such variation before he enters upon his duties in respect thereof.

Proceedings
on report
of engineer.

(2) The proceedings upon such report and assessment shall be the same, as nearly as may be, as upon the report for the construction of the drainage work.

(3) Any council served with a copy of such report and assessment may appeal to the referee from the finding of the engineer as to the portion of the cost of the work for which the municipality is liable, and the proceedings on such appeal shall be the same as in other cases of appeals to the referee under this Act. Appeal from report of engineer.

(4) Any owner of lands and any ratepayer in the municipality as to roads assessed for such repairs may appeal from such assessment in the manner provided in the case of the construction of the drainage work, and the council of every municipality affected by the report of the engineer or surveyor made under this section shall appoint a court of revision for the trial of any appeals in the manner hereinbefore provided. Appeal to court of revision.

(5) Such assessment as so varied shall thereafter, unless or until it is further varied, form the basis of any assessment for maintenance of the drainage work affected thereby. Basis of future assessments. R.S.O. 1937, c. 278, s. 75.

IMPROVING WITHOUT REPORT

76. The council of any municipality whose duty it is to maintain any drainage work for which only lands and roads within or under the jurisdiction of the municipality are assessed, may, after the completion of the drainage work, without the report of an engineer or surveyor upon a *pro rata* assessment on the lands and roads as last assessed for the construction or repair of the drainage work, make improvements thereto by deepening, widening or extending the work to an outlet, provided the cost of such deepening, widening and extending is not above one-fifth of the cost of the construction, and does not exceed in any case \$800, and in every case where the cost of the improvements exceeds such proportion or amount, the proceedings to be taken shall be as provided in section 77. Deepening, widening or extending without report of engineer. R.S.O. 1937, c. 278, s. 76; 1949, c. 63, s. 4.

IMPROVING WITH REPORT

77.—(1) Wherever, for the better maintenance of any drainage work constructed under this Act or any Act respecting drainage by local assessment, or to prevent damage to any lands or roads it is deemed expedient to change the course of the drainage work, or to make a new outlet for the whole or any part of the work, or to construct a tile drain under the bed of the whole or any portion of the drainage work as ancillary thereto, or to construct, reconstruct or extend protective banks, walls, dykes and other protective works as ancillary to the drainage work, or otherwise improve, extend, or alter the work, or to cover the whole or any part of it, the council of Improving upon examination and report by engineer.

the municipality or of any of the municipalities whose duty it is to maintain the drainage work may, without the petition required by section 2 but on the report of an engineer or surveyor appointed by them to examine and report on the same, undertake and complete the change of course, new outlet, tile drain, protective works, improvement, extension, alteration or covering specified in the report, and the engineer or surveyor shall for such change of course, new outlet, tile drain, protective works, improvement, extension, alteration or covering have all the powers to assess and charge lands and roads in any way liable to assessment under this Act for the expense thereof in the same manner and to the same extent, by the same proceedings and subject to the same rights of appeal as are provided with regard to any drainage work constructed under this Act. R.S.O. 1937, c. 278, s. 77 (1); 1949, c. 63, s. 5.

Summary
appeal to
referee with
respect to
protective
works.

(2) Where protective banks, walls, dykes or other protective works provided for in subsection 1 are to be constructed, reconstructed or extended to prevent damage to any lands or roads, any owner affected by the drainage work to which the said protective works are ancillary, if dissatisfied with the report of the engineer by reason of the protective works being made ancillary to the drainage work or of the whole or any part of the cost thereof being assessed and charged as part of the drainage work or of any assessments and charges or the apportionment thereof set forth in the report, may appeal therefrom to the referee within the time and in the manner provided in subsection 10 of section 8, and the referee may hear and determine the appeal according to that subsection and his decision shall be final.

Application
of section.

(3) The provisions of this section shall apply to the better maintenance of a natural stream, creek or watercourse which has been artificially improved by local assessment or otherwise, and to any drainage work constructed under *The Ontario Drainage Act*, being chapter 36 of the Revised Statutes of Ontario, 1887, in the same manner, to the same extent, and by the same proceedings as are hereby made applicable to the better maintenance of a drainage work wholly artificial.

Future
mainten-
ance.

(4) Such drainage work shall thereafter be maintained as hereinbefore by this Act provided, but on the basis of the new assessment, unless or until such assessment is varied or otherwise determined as provided by section 75.

Report of
engineer as
to work
under ss. 71,
72 and 73
not essential.

(5) Nothing in this section or in section 76 shall be construed as requiring a municipal council to procure the report of an engineer before undertaking any work in pursuance of sections 71, 72 and 73. R.S.O. 1937, c. 278, s. 77 (2-5).

REPAIRING WORK CONSTRUCTED OUT OF GENERAL FUNDS

78.—(1) Any drainage work heretofore or hereafter constructed out of the general funds of any municipality, or out of the general funds of two or more municipalities, or when constructed by statute labour, or partly by statute labour and partly by general funds or out of funds raised by a local assessment under a by-law which is afterwards found to be illegal or which does not provide for repairs, need not be repaired out of such general funds, but the council of any of the contributing municipalities may, without the petition required by section 2, on the report of an engineer or surveyor, pass a by-law for maintaining the same at the expense of the lands and roads assessable for such work, and may assess the lands and roads in any way liable to assessment under this Act for the expense thereof in the same manner and to the same extent, by the same proceedings and subject to the same rights of appeal as are provided with regard to any drainage work constructed under this Act.

Assessment for repair of work constructed out of general funds.

(2) Any such drainage work may in like manner and under the like procedure as provided in the case of repairs under this section be deepened, widened, extended or provided with a new outlet for the whole or any part thereof. R.S.O. 1937, c. 278, s. 78.

Deepening of drain so constructed.

79.—(1) Where an engineer or surveyor is directed by the council to make an examination and report under section 77 or subsection 2 of section 78, and upon making such examination finds that the cost of changing the course of, making a new outlet for or otherwise improving, extending or altering the work so that it will be of sufficient capacity to carry off the water to a sufficient outlet will exceed the amount of injury caused or likely to be caused to low-lying lands along the course of or below the termination of the drainage work, then in lieu of such change of course, new outlet, improvement, extension or alteration or in lieu of any work, he may in his report estimate and provide for the compensation of the owners of such lands for any injuries sustained or likely to be sustained by reason of no sufficient capacity or sufficient outlet being provided, and he shall in his report determine the amount to be paid to the respective owners of such low-lying lands in respect of such injuries.

Assessing damage for overflow instead of repairing drain on report.

(2) Any owner of such low-lying lands, if dissatisfied with the provision for compensation made by the report of the engineer, may appeal therefrom to the referee in manner provided by subsection 10 of section 8, and the referee may hear and determine such appeal in the manner provided by that subsection. R.S.O. 1937, c. 278, s. 79.

Appeal to referee.

MANDAMUS TO COMPEL REPAIR

Power to
compel
repairs by
mandamus.

80.—(1) Upon reasonable notice in writing from any person or municipality interested in a drainage work who or whose property is injuriously affected by the condition of the drainage work, the municipality whose duty it is to maintain and keep in repair the drainage work, shall be compellable by mandamus issued by the referee or other court of competent jurisdiction to exercise the powers and to perform the duties conferred or imposed upon it by sections 71 to 78, or such of the said powers as to the referee or court may seem proper, and shall also be liable in pecuniary damages to the person or municipality who or whose property is so injuriously affected.

Appeal
with
leave.

(2) Any party to such proceedings may by leave of the referee or of the Court of Appeal or a judge thereof, appeal to the Court of Appeal from the decision or judgment of the referee.

Time
limitation.

(3) A mandamus against the municipality shall not be moved for until after the lapse of 30 days from the date of the service of the notice.

Liability of
municipality
for damages
caused by
non-repair.

(4) Notwithstanding anything in subsection 1, the municipality whose duty it is to maintain and keep in repair a drainage work shall not become liable in pecuniary damages to any owner of land whose property is injuriously affected by reason of the non-repair of the drainage work, unless and until after service by or on behalf of such owner of notice in writing upon the reeve or clerk of the municipality, describing with reasonable certainty the alleged lack of repair of the drainage work.

No liability
where drain
blocked by
snow or ice.

(5) The corporation whose duty it is to maintain and keep in repair a drainage work shall not be liable in damages for any injury caused by reason of a drain on the highway being blocked by snow or ice and overflowing the lands of any person without negligence on the part of the corporation. R.S.O. 1937, c. 278, s. 80.

REPAIRS BY OWNERS

Duty of
owners as
to cleaning
out and
maintaining
banks.

81.—(1) The council of any municipality may pass a by-law or by-laws providing that the owner of every lot or part of a lot, assessed for benefit, shall clean out the drain and keep it free from obstructions which may hinder or impede the free flow of the water, and remove therefrom all weeds and brush-wood and keep the banks of the drain in order, to the extent and in manner or proportion and for the distance determined by the engineer in his report, and, where any such owner makes

default in so doing for 30 days after notice in writing from the council of the municipality, the work may be done by the council or by any officer appointed by it for the purposes of the drain, and the cost thereof, after notice of the same to the person so making default and liable therefor, shall be placed on the collector's roll against the lands of such owner and shall be chargeable against such lands and be collected in the same manner as other municipal or drainage assessments.

(2) The engineer or surveyor shall in his report state the portion of the drain already or thereafter to be constructed which shall be by each owner assessed for benefit, cleaned out and kept clear and free from obstructions and in good order as prescribed by this section. R.S.O. 1937, c. 278, s. 81.

82.—(1) When any drainage work heretofore or hereafter constructed becomes obstructed by dams, low bridges, fences, washing out of private drains, or other obstructions, for which the land adjoining the drainage work or the owner or person in possession thereof is responsible, so that the free flow of the water is impeded thereby, the persons owning or occupying the land shall, upon reasonable notice in writing given by the council or by an inspector appointed by the council for the inspection and care of drains, remove such obstructions in any manner caused as aforesaid and, if not so removed within the time specified in the notice, the council or the inspector shall forthwith cause the same to be removed.

(2) The council may, by by-law, appoint an inspector for the purposes mentioned in subsection 1, and shall in the by-law regulate the fees or other remuneration to be received by him.

(3) If the cost of removing the obstruction is not paid to the municipality by the owner or occupant of the lands liable, forthwith after the completion of the work, the council may pay the same, and the clerk of the municipality shall place such amount upon the collector's roll against the lands liable, with 10 per cent added thereto, and the same shall be collected like other taxes, subject, however, to an appeal to the judge by the owner or occupant, in respect of the cost of the work. R.S.O. 1937, c. 278, s. 82.

83. The council of any municipality may by by-law direct that the inspector appointed under section 82 shall from time to time remove from any drainage work all weeds and brushwood, fallen timber or other minor obstructions for which the owner of the lands adjacent to the drainage work may not be responsible, and the cost of such work shall be chargeable from time to time against the lands assessed for the maintenance of

the drainage work and in the proportion fixed by the by-law authorizing the drainage work, but it shall not be necessary to assess and levy the amount so charged more than once in every five years after the passing of such first-mentioned by-law, unless in the meantime the total expense incurred exceeds the sum of \$100. R.S.O. 1937, c. 278, s. 83.

CUTTING EMBANKMENTS, BANKS, ETC.

Penalty for injury to embankments, etc.

84. Any person who obstructs, fills up or injures any drainage work, or destroys, cuts, or injures any embankment of any pumping works, or of any other drainage work, in addition to his liability in civil damages therefor, upon the complaint of the council of the municipality or of any person affected by such obstructing, filling up, destroying, cutting, or injuring, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$5 and not more than \$100 and shall also be liable to imprisonment for a term of not more than six months, and in default of payment of such penalty shall further be liable to imprisonment for a term of not more than three months. R.S.O. 1937, c. 278, s. 84.

REMOVING ARTIFICIAL OBSTRUCTIONS

Removal of dams on construction of work.

85. Wherever, in the construction of any drainage work, any dam or other artificial obstruction exists in the course of or below the work, and is situate wholly within the municipality doing the work, the council shall have power, with the consent of the owner thereof and of the council or councils of the other municipalities liable to assessment for the cost of the work, and upon payment of such purchase money as may be mutually agreed upon, or in default of such consent or agreement as may be determined by the referee, to remove the same wholly or in part, and any amount so paid or payable as purchase money shall be deemed part of the cost of construction and be provided for in the assessment by the engineer or surveyor. R.S.O. 1937, c. 278, s. 85.

OPERATING PUMPING WORKS

Appointment of commissioners for pumping works.

86.—(1) For the better maintenance of drainage work by embanking, pumping or other mechanical operations, the council of the municipality initiating the work may pass by-laws appointing a commissioner or commissioners who shall have power to enter into all necessary and proper contracts for the purchase of fuel, erection or repairs of buildings, and purchase and repairs of machinery, and to do all other things necessary for successfully operating the drainage work and for keeping the embankment thereof in repair as may be set

forth in the by-law appointing them, and the council may pass by-laws for defraying the annual cost of maintaining and operating the work by assessment upon the lands and roads in any way liable to assessment under this Act. R.S.O. 1937, c. 278, s. 86 (1); 1944, c. 40, s. 3.

(2) Upon the petition of two-thirds of the resident owners in the drainage territory, the council of the municipality may pass by-laws empowering the commissioner or commissioners appointed under this section to use all buildings, machinery and equipment belonging to and in connection with any drainage pumping works, and to operate the same for such purposes and upon such terms as may be set forth in such by-laws but so that the profits or benefits of such user shall accrue to the owners. R.S.O. 1937, c. 278, s. 86 (2).

Powers which may be granted to commissioners.

87. Upon the petition of two-thirds of the persons interested in any drainage work constructed by embanking, pumping or other mechanical operations, and not constructed by the municipality, the council of the municipality in which the work is situate may assume the work and maintain and operate the same, in the same manner and to the same extent as if such drainage work had been constructed under this Act, but at the cost of the lands and roads liable to be assessed for the work. R.S.O. 1937, c. 278, s. 87.

Assuming drainage works constructed by private persons.

DEBENTURES FOR MAINTENANCE

88.—(1) Where the maintenance of any drainage work is so expensive that the municipal council liable therefor deems it inexpedient to levy the cost thereof in one year, the council may pass a by-law to borrow, upon the debentures of the municipality, the amount necessary for the work, or its proportion thereof, and shall assess and levy upon the lands and roads liable therefor a special rate sufficient for the payment of the debentures.

Power to issue debentures for cost of maintenance.

(2) Where such debentures are issued for work done under section 77, the debentures shall be payable within 20 years from the date thereof, and where such debentures are issued for the cost of repairs undertaken under any other provision the debentures shall be payable within seven years from the date thereof.

Time at which debentures to be payable.

(3) The provisions of *The Municipal Drainage Aid Act* shall apply to any debentures issued under any by-law passed under this section, which has before its final passing been published or of which the ratepayers have been notified in manner provided by this Act or which has after its passing been promulgated under the provisions of *The Municipal Act*. R.S.O. 1937, c. 278, s. 88.

Application of Rev. Stat., cc. 247, 243.

PAYING BACK ADVANCES

Repayment of advances from general funds on receipt of assessments.

89. Any money which has been or hereafter is advanced by the council of any municipality out of its general funds for the purposes of any drainage work in anticipation of the levies and collections therefor shall be repaid into the general funds of the municipality as soon as the money first derived from the assessment is collected. R.S.O. 1937, c. 278, s. 89.

MUNICIPALITY ASSUMING AWARD DRAINS

Power to bring drains constructed under Rev. Stat., c. 105 within this Act.

90. Upon a petition presented to the council of any municipality as provided for in section 2 having within the area described therein any drain constructed under *The Ditches and Watercourses Act* or any other Act providing for assessment in work, signed by a majority of the owners interested in such ditch or drain, the council may assume the same and proceed thereon in the same manner and to the same extent as for the construction of any drainage work under this Act, and the passing of the by-law under this Act shall in every such case be a bar to any further proceedings upon the award or under the Act upon which the award is based. R.S.O. 1937, c. 278, s. 90.

COST OF REFERENCE AND INCIDENTAL EXPENSES

Expenses to be deemed part of the cost of the work.

91. Except where otherwise provided by this Act, the cost of any reference had in connection with the construction or maintenance of any drainage work, the cost of the publication or service of by-laws, and all other expenses incidental to the construction or maintenance of the work and the passing of the by-laws, shall be deemed part of the cost of the work and shall be included in the amount to be raised by local rate on all lands and roads liable therefor. R.S.O. 1937, c. 278, s. 91.

LANDLORD AND TENANT

Tenant's covenant to pay taxes, when to include drainage assessments.

92. Any agreement on the part of any tenant to pay the rates or taxes in respect of the demised lands shall not include the charges and assessments for any drainage work unless the agreement in express terms so provides; but in cases of contract to purchase or of leases giving the lessee an option to purchase, the charges and assessments for drainage work in connection with which proceedings were commenced under this Act, after the date of the contract or lease, and which have been already paid by the owner, shall be added to the price and shall be paid by the purchaser or the lessee in case he exercises his option to purchase; but the amount still unpaid on the cost of the work or repair and charged against the lands shall be borne

by the purchaser unless otherwise provided by the conveyance or agreement. R.S.O. 1937, c. 278, s. 92.

DRAINAGE REFEREES

93.—(1) The Lieutenant-Governor in Council from time to time may appoint two referees for the purpose of the drainage laws; that is to say, *The Ontario Drainage Act*, the provisions of this Act and any other Acts and parts of Acts on the same subject. Referees, appointment of. Rev. Stat., 1887, c. 36.

(2) The referees shall be deemed to be and shall be officers of the Supreme Court. To be officers of Supreme Court.

(3) They shall be barristers of at least 10 years standing at the Bar of Ontario. Qualification.

(4) They shall hold office by the same tenure as official referees under *The Judicature Act*. Tenure of office. Rev. Stat., c. 190.

(5) They shall not practise as solicitors or barristers in any matter arising under this Act, nor act as legal agents or advisers in any such matter. Not to practise.

(6) They shall each be paid a salary of such amount as may be appropriated by the Legislature for the purpose, not exceeding \$3,500 a year, to be paid monthly, together with their reasonable travelling expenses. Salary.

(7) One of such referees shall exercise all the rights, powers, privileges and jurisdiction conferred upon him by this Act or any other Act or Acts in the Counties of Stormont, Dundas and Glengarry, Prescott and Russell, Leeds and Grenville, Frontenac, Lennox and Addington, Prince Edward, Hastings, Northumberland and Durham, Victoria, Haliburton, Peterborough, Renfrew, Lanark, Carleton, and the other referee shall exercise all the rights, powers, privileges and jurisdiction conferred upon him by this Act or any other Act or Acts in all the other counties and districts in Ontario. Jurisdiction.

(8) Where either of the referees is absent or owing to illness or other cause is unable to act, or where the office of either referee is vacant, the remaining referee shall act and shall have jurisdiction as referee over the whole Province until the vacancy is filled or the other referee is able to act. R.S.O. 1937, c. 278, s. 93. Absence or illness.

94. The Lieutenant-Governor in Council instead of appointing referees under section 93 may designate the Ontario Municipal Board as the referee. 1946, c. 61, s. 1. Municipal Board may be referee.

95.—(1) The referee shall have the powers of an official referee under *The Judicature Act* and *The Arbitration Act*. Referee to have powers of an official referee under Rev. Stat., cc. 190, 20.

and of arbitrators under any former enactments relating to drainage works.

Additional powers.

(2) In respect to all applications and proceedings before him or which may come before him under this Act or any former Act relating to drainage works, he shall have the powers of a judge of the Supreme Court including the production of books and papers, the amendment of notices of appeal and of notices of claims for compensation or damages, and of all other notices and proceedings, and he may correct errors, or supply omissions, fix the time and place of hearing, appoint the time for his inspection, summon to his aid engineers, surveyors or other experts, and regulate and direct all matters incident to the hearing, trial and decision of the matters before him so as to do complete justice between the parties, and he may also grant an injunction or a mandamus in any matter before him under this Act.

Power to determine validity of proceedings and amend report.

(3) The referee shall have power, subject to appeal as hereinafter provided, to determine the validity of all petitions, resolutions, reports, provisional or other by-laws, whether objections thereto have been stated as grounds of appeal to him or not, and to amend and correct any provisional by-law in question, and, with the engineer's consent and upon evidence given, to amend the report in such manner as may be deemed just, and upon such terms as may be deemed proper for the protection of all parties interested, and, if necessary by reason of such amendments, to change the gross amount of any assessment made against any municipality, but in no case shall he assume the duties conferred by this Act upon the court of revision or a county judge. R.S.O. 1937, c. 278, s. 94.

Interlocutory applications.

96. All interlocutory applications for any of the purposes mentioned in subsection 2 of section 95 shall be made to the referee and his order thereon shall be final and conclusive. R.S.O. 1937, c. 278, s. 95.

APPEALS FROM ASSESSMENT

Notice of appeal from assessment to be filed.

97. A copy of the notice of appeal by any municipality from the report, plans, specifications, assessments, and estimates of an engineer or surveyor or from a provisionally adopted by-law, with an affidavit of service thereof shall, within the time limited by this Act for the service of the same, be filed in the office of the clerk of the county court of the county or union of counties in which the drainage work commenced. R.S.O. 1937, c. 278, s. 96.

Amendment of by-law to carry out decision of referee.

98. The by-law of the initiating municipality and of any other municipalities interested shall be amended so as to in-

corporate and carry into effect the decision or report of the referee or such decision or report as varied on appeal, as the case may be. R.S.O. 1937, c. 278, s. 97.

99.—(1) Subject to section 100, applications to set aside, declare void or otherwise directly or indirectly to attack the validity of any petition, report of an engineer, resolution of a council, by-law provisionally adopted or finally passed relating to a drainage work as hereinbefore defined, as well as all proceedings to determine claims and disputes arising between municipalities or between a company and a municipality or between individuals and a municipality, company or individual in respect of anything done or required to be done under this Act or consequent thereon, or by reason of negligence, or for a mandamus or injunction, shall be made to and shall be heard and tried by the referee, who shall hear and determine the same and give his decision and his reasons therefor.

Application to set aside drainage by-law, report, petition or resolution to be made to referee.

(2) If the referee thinks that any proceeding under sub-section 1 could be more conveniently heard and tried by a county judge he may in his discretion request the county judge to hear and try such matter or proceeding, and any county judge acting upon such request shall have all the jurisdiction of the referee under this Act.

Trial by county judge.

(3) Proceedings for the determination of claims and disputes and for the recovery of damages by reason of negligence, or by way of compensation or otherwise, or for a mandamus or an injunction, under this section, shall be instituted by serving 10 clear days notice setting forth the grounds of the claim for damages or compensation or a mandamus or an injunction as the case may be upon all persons concerned.

Proceedings to be instituted by notice.

(4) A copy of the notice with an affidavit of service thereof shall be filed with the clerk of the county court of the county in which the land is situate and the notice shall be filed and served within two years from the time the cause of complaint arose.

Notice to be filed in county court.

(5) All affidavits intended to be used in support of a motion shall be filed with the clerk of the county court not less than five days before the return day of the motion.

Affidavits to be filed before motion.

(6) Subject to section 100, no application or proceeding within the meaning of this section shall be made or instituted otherwise than as herein provided.

Application not to be made otherwise.

(7) Where the amount awarded upon a claim for damages arising out of a drainage work does not exceed \$60, the costs allowed to the plaintiff shall be on the division court scale so far as the same is applicable.

Costs on claims not exceeding \$60 on division court scale.

Costs in
award of
damages for
non-repair.

(8) Where the amount awarded is upon a claim for damages by reason of the non-repair of a drainage work, the costs allowed shall be on the division court scale. R.S.O. 1937, c. 278, s. 98.

Actions may
be trans-
ferred to
referee.

100.—(1) Where an action is brought or is pending and the court in which the same is brought or is pending or a judge thereof is of opinion that the relief sought therein is properly the subject of a proceeding under this Act or that the same may be more conveniently tried before and disposed of by the referee, the court or judge may, on the application of either party, at any stage of the action make an order transferring it to the referee on such terms as may be deemed just, and the referee shall thereafter give directions for the continuance of the action before him, which shall be as far as practicable in conformity with the provisions of this Act as to proceedings by a notice of motion, and subject to the order, all costs shall be in his discretion.

Application
of section.

(2) This section shall apply only where the action is brought within the period limited by this Act for taking proceedings on notice. R.S.O. 1937, c. 278, s. 99.

Decision of
Court of
Appeal to be
final.

101. The decision of the referee in all applications and proceedings under this Act, not otherwise provided for as being final and conclusive between the parties, shall be subject to appeal to the Court of Appeal and its decision thereon shall be final, conclusive and binding upon all parties to the application or other proceeding. R.S.O. 1937, c. 278, s. 100.

Assessing
damages
and costs
payable by
municipalities.

102.—(1) Save as provided by subsections 2, 3 and 4 all damages and costs payable by a municipality and arising from proceedings taken under this Act shall be levied *pro rata* upon the lands and roads in any way assessed for the drainage work according to the assessment thereof for construction or maintenance, and may be assessed, levied and collected in the same manner as rates assessed, levied and collected for maintenance under this Act.

Municipality in
default may
be ordered
to pay
damages
and costs.

(2) Where such damages and costs become payable owing to any improper action, neglect, default or omission on the part of the council of any municipality or of any of its officers in the construction of the drainage work or in carrying out the provisions of this Act, the referee or court may direct that the whole or any part of such damages and costs shall be borne by the municipality and be payable out of the general funds thereof.

In cases of
settlement.

(3) Where in any such proceedings by or against a municipality an amicable settlement is arrived at and carried out by

the advice of counsel, the damages and costs payable under the terms of the settlement by any municipality shall be borne and paid as directed by the referee on application to him on behalf of the council of the municipality or any owner of lands assessed for the construction or maintenance of the drainage work, and in making such direction the referee shall have regard to the provisions of subsection 2.

(4) Where in the opinion of the referee damages and costs have become payable by reason of the insufficiency of the capacity or outlet of a drainage work and it is necessary in order to prevent a continuance of such damage to improve, extend or alter the drainage work, the referee may by his report permit the council of the municipality to add such damages and costs to the engineer's estimate of the cost of any such improvement, extension or alteration, and in such case the engineer shall include the amount of such damages and costs in his estimate of such cost and the same shall thereafter be assessed, levied and collected as if it were part of the actual cost of the drainage work. R.S.O. 1937, c. 278, s. 101.

Where extension of drainage work necessary.

CROSSING RAILWAY LANDS

103.—(1) Whenever by the report of an engineer or surveyor, drainage works are proposed to be carried upon, along, under or across the lands of any railway company, the council initiating the scheme shall serve the railway company with a copy of the report, plans, specifications, assessments or other estimates of the engineer or surveyor of the proposed works, and the company so served shall at any time within three weeks after such service have a right to appeal to the referee upon any question arising in connection with that portion of the drain or drainage work upon, along, under or across its railway or lands.

Carrying work through railway lands, service of report, etc., on company.

(2) Upon any appeal under subsection 1, the referee shall hear and adjudicate upon all questions raised in the notice of appeal, may amend the report appealed from and make such order in the premises as may be deemed just.

Jurisdiction of referee on appeal.

(3) The costs of such appeal shall be in the discretion of the referee. R.S.O. 1937, c. 278, s. 102.

Costs of appeal.

PROCEEDING WITH REFERENCE

104.—(1) The referee at any time after an appeal or reference is made to him as hereinbefore provided, may give directions for the filing or serving of objections and defences to such appeal or reference and for the production of documents and otherwise, and may give an appointment to either

Referee to direct procedure.

or any party to the appeal or reference, to proceed therewith at such place and time and in such manner as to him may seem proper, but unless the parties otherwise consent the hearing shall be in the county or one of the counties in which the drainage work or proposed drainage work is situate or in which lands are assessed.

Clerk of court.

(2) The clerk of the county court shall be the clerk of the court of the referee, and shall take charge of and file all the exhibits, and shall be entitled to the same fees for filings and for his services and for certified copies of decisions or reports as for similar services in the county court.

Fees of clerk.

(3) The clerk shall be entitled to such fees as the referee may direct, not exceeding \$4 per day for his attendance at the court, and such fees shall be included in the costs and shall be borne and paid as the referee may direct.

To be paid in money.

(4) The fees payable to the clerk shall be paid in money and not in stamps.

Referee's clerk.

(5) In the absence of the clerk of the county court the referee may appoint the referee's clerk or some other person to act as clerk for the purpose of the trial and for taking charge of and filing all exhibits, and the person so appointed shall while so acting have the same power and be entitled to the same fees as the clerk of the county court would have and be entitled to if personally present.

Subpoenas.

(6) Subpœnas for the attendance of witnesses at the hearing, tested in the name of the referee, may be issued by the clerk of the county court of the county in which the case is to be heard.

Shorthand writer.

(7) Two or more shorthand writers may from time to time be appointed by the Lieutenant-Governor in Council to report hearings or trials before the referee, and every such officer shall be deemed to be an officer of the Supreme Court, and shall be paid in the same manner as shorthand writers in the Supreme Court are paid and the sections of *The Judicature Act* respecting shorthand writers shall apply to any shorthand writer appointed under this Act. R.S.O. 1937, c. 278, s. 103.

Rev. Stat., c. 190.

When referee proceeds on view or special knowledge.

105. When the referee proceeds partly on view or on any special knowledge or skill possessed by himself, he shall put in writing a statement of the same sufficiently full to allow the Court of Appeal to form a judgment of the weight which should be given thereto, and he shall state as part of his reasons the effect given by him to such statement. R.S.O. 1937, c. 278, s. 104.

106. The decision or report of the referee with the evidence, exhibits, and statement, if any, of inspection or of technical knowledge and the reason for his decision shall be filed in the office of the clerk of the county court, and notice of the filing shall forthwith be given by the clerk, by post or otherwise, to the solicitors of the parties appearing by solicitor, and to other parties not represented by a solicitor, and also to the clerk of the municipality or other corporation. R.S.O. 1937, c. 278, s. 105.

107. A copy of the decision or report certified by the referee or clerk aforesaid, shall be sent or delivered to the clerk of every municipality interested in the drainage work in question upon receipt of the sum chargeable therefor, as hereinbefore provided, and shall be kept on file as a public document of the municipality. R.S.O. 1937, c. 278, s. 106.

108. The decision or report of the referee shall be in the form of an order for judgment and may be delivered as decisions by the judges of the Supreme Court are, and need not be in the form of a report, and unless appealed from to the Court of Appeal, as herein provided, judgment may be entered in the proper office without any further or other application or order. R.S.O. 1937, c. 278, s. 107.

109. When an appointment is given by the referee for the hearing of any matter under this Act in any city, town or place wherein a court house is situated, he shall have in all respects the same authority as a judge of the Supreme Court in regard to the use of the court house, or other place or apartments set apart in the county for the administration of justice. R.S.O. 1937, c. 278, s. 108.

110. Sheriffs, deputy sheriffs, constables and other peace officers shall aid, assist and obey the referee in the exercise of the jurisdiction conferred by this Act whenever required so to do, and shall, upon the certificates of the referee, be paid by the county or counties interested, like fees as for similar services at the sittings of the Supreme Court for the trial of causes. R.S.O. 1937, c. 278, s. 109.

111. Except as otherwise provided in this Act and subject to the provisions thereof, the rules and practice for the time being of the Supreme Court shall be followed so far as they are applicable. R.S.O. 1937, c. 278, s. 110.

112. In cases brought before the referee in pursuance of the powers conferred by this Act, or by any other Act, the evidence taken before him need not be filed, and need only

be written out at length by the shorthand writer if required by the referee or by any parties to the reference, and if required by any of the parties to the reference, copies shall be furnished upon such terms as may be fixed by the Lieutenant-Governor in Council. R.S.O. 1937, c. 278, s. 111.

Taxation
of costs.

113. Costs shall be taxed by the referee, or he may direct the taxation thereof by the clerk of the county court with whom the papers are filed, or by any taxing officer of the Supreme Court. R.S.O. 1937, c. 278, s. 112.

Fees, how
to be paid.

114. Fees shall be paid in stamps or otherwise in the same manner as in the case of other proceedings in such courts respectively, until other provision is made in that behalf by competent authority. R.S.O. 1937, c. 278, s. 113.

Fees on
trial.

115. To provide a fund for or towards the payment of the referee's salary and other expenses, there shall be further payable a sum which shall be determined by the referee and mentioned in his decision or report or in a subsequent report; but such sum shall not exceed the rate of \$4 a day for every full day the trial occupies, and shall be paid in stamps by one or the other of the parties, or distributed between or among the parties as the referee directs. R.S.O. 1937, c. 278, s. 114.

Reports to
be stamped.

116. The decision or report of the referee shall not be given out until stamped with the necessary stamps. R.S.O. 1937, c. 278, s. 115.

Time for
appealing
to Court
of Appeal.

117.—(1) The decision or report of the referee, on any appeal or reference under this Act, or in any action or proceeding transferred or referred to him under this Act shall be binding and conclusive upon all parties thereto, unless appealed from to the Court of Appeal within one month after the filing thereof, or within such further time as the referee or the Court of Appeal or a judge thereof may allow, save as otherwise provided by this Act in any case where it is declared that the decision of the referee shall be final.

Procedure.

(2) The decision or report may be appealed against to the Court of Appeal in the same manner as from a decision of a judge of the Supreme Court sitting in court. R.S.O. 1937, c. 278, s. 116.

RULES AND TARIFF OF COSTS

Rules by
Rules
Committee.

118. Subject to the approval of the Lieutenant-Governor in Council, the Rules Committee shall have the same authority to make general rules with respect to proceedings before the

referee and appeals from him as it has with respect to proceedings under *The Judicature Act*, and section 109 of that Act Rev. Stat., c. 190. shall apply thereto. R.S.O. 1937, c. 278, s. 117; 1941, c. 55, s. 22 (1).

119. Subject to any such general rules the referee shall Referee may make rules. have power, with the approval of the Lieutenant-Governor in Council, to frame rules regulating the practice and procedure to be followed in all proceedings before him under this Act, and also to frame tariffs of fees in cases not otherwise provided for. R.S.O. 1937, c. 278, s. 118 (1).

120. Until other provisions are made under sections 118 Tariff of county court adopted until rules made. and 119 the tariff of the county court shall be the tariff of costs and of fees and disbursements for solicitors and officers under this Act and the referee shall have the power to fix counsel fees. R.S.O. 1937, c. 278, s. 119.

FORM 1

(Section 3)

FORM OF PETITION FOR DRAINAGE WORK

The petition of the majority in number of the resident and non-resident persons (exclusive of farmers' sons not actual owners), as shown by the last revised assessment roll of the township of in the county of to be the owners of the lands to be benefited within said township, and hereinafter described, sheweth as follows:

Your petitioners request that the area of land within the said township and being described as follows: that is to say, lots numbered 1 to 10 inclusive in the first concession; lots lettered A to H inclusive in the second concession; north-west halves of lots numbered 4 to 12 inclusive in the third concession; the side-road between lots numbered 7 and 8 in the first concession, and the road allowance between concessions 1 and 2 and between 2 and 3 (*as the case may be, or describing the area by metes and bounds*), may be drained by means of:

1. A drain or drains.
2. Deepening, straightening, widening, clearing of obstructions or otherwise improving the stream, creek or watercourse, known as (*name or other general designation*).
3. Lowering the water of lake or the pond known as (*name or other general designation*), (*or by any or all of said means*).

And your petitioners will ever pray:

R.S.O. 1937, c. 278, Form 1.

FORM 2

(Section 23)

FORM OF BY-LAW

A by-law to provide for drainage work in the of in the county of and for borrowing on the credit of the municipality, the sum of for completing the same (*or the sum of the proportion to be contributed by said municipality for completing the same*).

Provisionally adopted the day of, 19.....

Whereas the majority in number of the resident and non-resident owners (exclusive of farmers' sons not actual owners), as shown by the last revised assessment roll, of the property hereinafter set forth to be benefited by drainage work (*as the case may be*) have petitioned the council of the said of praying that (*here set out the purport of the petition, describing generally the lands and roads to be benefited*).

And whereas, thereupon the said council has procured an examination, to be made by, being a person competent for such purpose, of the said area proposed to be drained and the means suggested for the drainage thereof, and of other lands and roads liable to assess-

ment under *The Municipal Drainage Act*, and has also procured plans, specifications and estimates of the drainage work to be made by the said and an assessment to be made by him of the lands and roads to be benefited by such drainage work, and of other lands and roads liable for contribution thereto, stating as nearly as he can the proportion of benefit, outlet liability and injuring liability, which, in his opinion, will be derived or incurred in consequence of such drainage work by every road and lot, or portion of lot, the said assessment so made being the assessment hereinafter by this by-law enacted to be assessed and levied upon the roads and lots, or parts of lots hereinafter in that behalf specially set forth and described; and the report of the said in respect thereof, and of the said drainage work being as follows: (*here set out the report of the engineer or surveyor employed*).

And whereas the said council is of opinion that the drainage of the area described is desirable:

Therefore the council of the said of pursuant to the provisions of *The Municipal Drainage Act*, enacts as follows:

1st. The said report, plans, specifications, assessments and estimates are hereby adopted, and the drainage work as therein indicated and set forth shall be made and constructed in accordance therewith.

2nd. The reeve (or mayor) of the said may borrow on the credit of the corporation of the said of the sum of dollars, being the funds necessary for the work *not otherwise provided for* (or being said municipality's proportion of the funds necessary for the work), and may issue debentures of the corporation to that amount in sums of not less than \$50 each, and payable within years from the date of the said debentures with interest at the rate of per cent per annum, that is to say: (*insert the manner of payment annually and whether with or without coupons, and if the latter, omit the last clause of this paragraph*) such debentures to be payable at, and to have attached to them coupons for the payment of interest.

3rd. For paying the sum of (\$410), the amount charged against the said lands and roads for benefit, and the sum of (\$108), the amount charged against said lands and roads for outlet liability, and the sum of (\$135), the amount charged against said lands and roads for injuring liability, apart from lands and roads belonging to or controlled by the municipality, and for covering interest thereon for years, at the rate of per cent per annum, the following total special rates over and above all other rates shall be assessed, levied and collected (in the same manner and at the same time as other taxes are levied and collected) upon and from the undermentioned lots and parts of lots and roads, and the amount of the said total special rates and interest against each lot or part of lot respectively shall be divided into equal parts, and one such part shall be assessed, levied and collected as aforesaid, in each year, for years, after the final passing of this by-law, during which the said debentures have to run.

Concession.	Lot or part of lot.	Acres.	Value of Benefit.	Value of Outlet Liability.	Value of Injuring Liability.	To cover interest for ... year at ... per cent.	Total special rate.	Annual Assessment during each year for years.
			\$ c.	\$ c.	\$ c.	\$ c.	\$ c.	\$ c.
10	5	200	100 00	23 00				
10	S. 1/2 6	100	50 00	10 00				
10	N. 1/2 6	50	30 00	5 00				
10	S.W. 1/4 8	100	80 00	13 00				
10	S.W. 1/4 & N. 1/4 9	150	150 00	20 00				
10	4	200	.....	24 00				
10	S. 1/2 3	100	.....	13 00				
9	W. 1/2 5	100	.....		40 00			
9	N. 1/2 6	50	.....		25 00			
9	N.E. 1/4 & N. 1/4 7	150	.....		70 00			
Total for benefit.....			410 00	108 00	135 00			
" outlet.....			108 00					
" injuring.....			135 00					
Roads (and lands) of municipality.....			100 00					
Total.....			\$753 00					

4th. For paying the sum of (\$100), the amount assessed against the said roads and lands of the municipality, and for covering interest thereon for years at the rate of per cent per annum, a special rate in the dollar, sufficient to produce the required yearly amount therefor shall, over and above all other rates, be levied and collected (in the same manner and at the same time as other taxes are levied and collected) upon and from the whole rateable property in the said of in each year for years, after the final passing of this by-law, during which the said debentures have to run.

5th. This by-law shall be published once in every week for four consecutive weeks in the newspaper, published in the town of (or printed and served or mailed as prescribed), and shall come into force upon and after the final passing thereof, and may be cited as the "..... By-law".

R.S.O. 1937, c. 278, Form 2.

CHAPTER 247

The Municipal Drainage Aid Act

1.—(1) The council of a township which has passed a by-law for undertaking a work under *The Municipal Drainage Act* may, after the expiration of the time limited for serving notice of intention to make application to quash the by-law, apply to the Treasurer of Ontario for the purchase by the Province of the debentures authorized thereby.

Right to
apply to the
Treasurer of
Ontario for
purchase of
debentures.
Rev. Stat.,
c. 246.

(2) The application shall be in the prescribed form and shall be sealed with the seal of the municipality, and signed by the head thereof, and shall be accompanied by two affidavits, in the prescribed form, one to be made by him and the other by the clerk of the municipality. R.S.O. 1937, c. 71, s. 1.

Form of
application.

2. The Treasurer of Ontario shall investigate and report to the Lieutenant-Governor in Council as to the propriety of all proposed investments, in the order in which the applications therefor are received. R.S.O. 1937, c. 71, s. 2.

Report by
Treasurer as
to invest-
ment.

3. The Treasurer of Ontario shall not certify to the propriety of an investment where the aggregate amount of the rates necessary for the payment of the annual expenses of the municipality for the last completed financial year and of the interest and principal of the debts contracted by it exceeds three cents in the dollar on the whole value of the rateable property within its jurisdiction, or where the amount of the debentures to be issued exceeds \$60,000, and the amount invested in the purchase of debentures of any municipality shall not at any time exceed \$40,000. R.S.O. 1937, c. 71, s. 3.

When the
Treasurer
not to certify
to propriety
of invest-
ment.

4.—(1) The Lieutenant-Governor in Council may authorize the investment of any surplus of the Consolidated Revenue Fund, not exceeding in the whole at any time \$500,000, in the purchase of debentures in respect of which the Treasurer of Ontario certifies to the propriety of the investment. R.S.O. 1937, c. 71, s. 4 (1).

Purchase of
debentures.

(2) No investment shall be made by the Treasurer under this Act where the price paid for the debentures would be such as to show a less return to the Province than the equivalent of an investment at three per cent per annum. R.S.O. 1937, c. 71, s. 4. (2); 1943, c. 17, s. 1.

Investment
to show at
least three
per cent.

Advances on
account.

5. The Lieutenant-Governor in Council may authorize the advance of the whole par value of the debentures, or the retention of such percentage thereof as he may see fit until the Minister of Public Works has reported that the works have been inspected and are completed, and the expenses in connection with the investigation and inspection shall be deducted from the amount, if any, retained. R.S.O. 1937, c. 71, s. 5; 1939, c. 47, s. 22.

When debentures un-
questionable.

6. After such investment, the debentures shall not be questioned in any court and shall be valid and binding according to the terms thereof. R.S.O. 1937, c. 71, s. 6.

Repayment.

7.—(1) The amount payable in each year for principal and interest shall be remitted by the treasurer of the municipality to the Treasurer of Ontario within one month after the same became payable, together with interest at the rate of seven per cent per annum during the time of any default in payment.

Consequence
of default
in payment.

(2) In case of a continuance of such default the council in the next ensuing year or as the case may require shall assess and levy on the whole rateable property within its jurisdiction in the same manner in which taxes are levied for the general purposes of the municipality a sum, over and above the other valid debts of the corporation falling due within the year, sufficient to enable the treasurer of the municipality to pay the amount in arrear together with interest thereon at the rate of seven per cent per annum from the time the same became payable until payment, whether or not the same has been previously paid by or recovered from the persons or land chargeable therewith.

How arrears
ranked as a
charge.

(3) The amount so in arrear and the interest shall be the first charge upon all the funds of the municipality other than sinking funds, for whatever purpose or under whatever by-laws they may have been raised.

Duty of
municipal
treasurer
after default.

(4) No treasurer or other officer shall after such default pay out of the funds of the municipality any sum, except for the ordinary current disbursements and salaries of clerks and other employees of the municipality or debts due to the Province, until the amount so in arrear and the interest has been paid to the Treasurer of Ontario.

Liability of
municipal
officers.

(5) If such treasurer or other officer pays any sum contrary to subsection 4, in addition to any criminal liability which he may thereby incur, he shall be personally liable for every sum paid as for money had and received by him for the Crown.

(6) Any member of the council who wilfully or negligently permits any of the foregoing provisions to be violated shall also be personally and individually liable for the full amount so in arrear, and the interest, to be recovered as for money had and received by him for the Crown.

Liability of
member of
council.

(7) No assessment, levy or payment made under this section shall exonerate the persons or lands chargeable under the by-law from liability to the municipality. R.S.O. 1937, c. 71, s. 7.

Liability o
lands to
municipality
not affected.

8. The Lieutenant-Governor in Council may make regulations and prescribe forms for the carrying out of the provisions of this Act. R.S.O. 1937, c. 71, s. 8.

Regulations
and forms.

1. 1. 1.

2. 2. 2.

3. 3. 3.

4. 4. 4.

5. 5. 5.

6. 6. 6.

7. 7. 7.

8. 8. 8.

9. 9. 9.

10. 10. 10.

11. 11. 11.

12. 12. 12.

13. 13. 13.

14. 14. 14.

15. 15. 15.

CHAPTER 248

The Municipal Electric Railways Act

1. In this Act,

Interpre-
tation.

- (a) "association" means municipal electric railway association;
- (b) "Commission" means The Hydro-Electric Power Commission of Ontario;
- (c) "corporation" means a municipal corporation other than the municipal corporation of a county;
- (d) "trust corporation" includes trust company. R.S.O. 1937, c. 260, s. 1.

2. On the request expressed by resolution of the corporations of two or more municipalities situate in any locality in which electrical power or energy may be supplied by the Commission under *The Power Commission Act*, the Commission as the agent of the corporations and at the expense of the corporations, may inquire into, examine, investigate and report upon,

Investiga-
tion and
report by
Commission.
Rev. Stat.,
c. 281.

- (a) the cost of constructing, equipping and operating an electric railway in the locality, including a sum for working capital and a sum to cover any probable loss by discount on the sale of the bonds of the association;
- (b) the municipalities which will be served by the railway;
- (c) the population of each of such last-mentioned municipalities as shown by the last enumeration thereof by the assessors;
- (d) an estimate, including the rates and fares proposed to be charged, of the probable revenue from the railway;
- (e) the practicability of the undertaking and its economic value to the locality to be served by it. R.S.O. 1937, c. 260, s. 2.

3.—(1) Such corporations may enter into an agreement (Form 1), with each other, for the construction, equipment and

Agreement
among cor-
porations for
construction
and opera-
tion.

operation of an electric railway to be operated by electrical power or energy supplied by the Commission.

What agree-
ment shall
set out.

- (2) The agreement shall provide for,
- (a) the location of the line of railway;
 - (b) the character of the construction and of the equipment to be furnished;
 - (c) the proportions in which the cost of construction and equipment, and the working capital of the railway shall be borne by each corporation;
 - (d) the issuing of debentures by the corporations and their deposit with a trust corporation as collateral security for any bonds which may be issued by the association to meet the cost of construction and equipment of the railway and to provide working capital therefor;
 - (e) the terms and conditions on which electrical power or energy shall be supplied by the Commission for the operation of the railway;
 - (f) the construction and equipment of the railway either by the association or by the Commission;
 - (g) the entrustment of the management and operation of the railway to the association to be appointed or elected as hereinafter provided.

What agree-
ment may
set out.

- (3) The agreement may provide for,
- (a) the construction of the railway upon any right of way acquired by the Commission for the transmission of electrical power or energy under *The Power Commission Act*, and the amount chargeable to the railway by way of rental or otherwise for the use of the right of way;
 - (b) the acquiring by purchase or lease of any steam, electric or street railway situate within one or more of the municipalities or any part or parts of any steam, electric or street railway which are situate within one or more of the municipalities and are capable of forming part of the proposed railway system for the service of the municipalities, or the obtaining of running rights over the same;
 - (c) the extension of the railway into any adjacent municipality under an agreement to be made between the association and the corporation of the municipality with the approval of the corporations parties to the agreement. R.S.O. 1937, c. 260, s. 3.

Rev. Stat.,
c. 281.

4. Before the submission of the by-law to the electors as provided in section 6 the corporations shall without the assent of the electors enter into an agreement with the Commission, conditioned on the assent of the electors of each of the municipalities being obtained to the agreement mentioned in section 3,

Agreement with Commission as to certain matters.

- (a) for the supply by the Commission of the electrical power or energy required for the operation of the railway;
- (b) for the construction and equipment of the railway and any extension thereof by the Commission, if construction and equipment is to be by the Commission; and
- (c) for the construction of the railway upon any right of way as set out in subsection 3 of section 3. R.S.O. 1937, c. 260, s. 4.

5.—(1) Except where otherwise expressly provided, the provisions of this Act relating to the construction of a railway and to the equipment, maintenance and operation of it shall apply to the purchase of a railway or any part or parts thereof and the provisions of this Act relating to maintenance and operation shall apply to a railway or any part or parts thereof leased.

Provisions as to construction to apply to purchase.

(2) Where a steam railway or part thereof is purchased or leased it shall be operated by electrical power or energy supplied by the Commission under *The Power Commission Act*, R.S.O. 1937, c. 260, s. 5.

Operation by electrical power.
Rev. Stat., c. 281.

6.—(1) The council of each of the corporations interested shall submit to the vote of the electors qualified to vote on money by-laws, a by-law approving of the agreement and directing its execution, and if a majority of the electors voting thereon vote in favour of the by-law, the council shall pass the same and the agreement shall be executed as directed by the by-law.

Submission of by-law approving of agreement.

(2) The by-law shall not be voted upon by the electors until the by-law and agreement have been published in the manner provided by *The Municipal Act* in the case of money by-laws, at least once a week for four successive weeks. R.S.O. 1937, c. 260, s. 6.

Publication of by-law and agreement.
Rev. Stat., c. 243.

7. The by-law submitted to the electors shall recite,

Recitals in by-law.

- (a) the estimated cost of the construction and equipment of the railway including a sum for working capital;

- (b) the portion of such cost to be borne by the corporation;
 - (c) the total annual amount estimated to be required for the maintenance and operation of the railway and for sinking fund charges and interest;
 - (d) the portion of such amount to be borne by the corporation;
 - (e) the estimated probable revenue from the railway.
- R.S.O. 1937, c. 260, s. 7.

Where any corporation fails to pass by-law and execute agreement.

8.—(1) Where any corporation or corporations named as party or parties to the agreement have failed to pass the necessary by-law and to execute the agreement, and the amount for which such corporation or corporations would be liable under the agreement does not exceed 15 per cent of the estimated cost of the construction and equipment of the railway and of the amount to be provided for working capital and the remaining corporations, parties to the agreement, have by resolution of their respective councils expressed the desire to proceed with the undertaking notwithstanding the failure of the first-mentioned corporation or corporations to execute the agreement, the association or the Commission, as the case may be, may proceed with the construction and equipment of the railway, and in that case the corporations which have executed the agreement shall without the assent of the electors deposit with the trust corporation additional debentures to the amount required to replace the debentures which would have been deposited by the first-mentioned corporation or corporations in the proportions in which they are liable under the agreement to contribute to the cost of the construction and equipment of the railway and to working capital therefor.

Railway facilities need not be provided.

(2) Until a corporation has executed the agreement and deposited debentures with the trust corporation as required by this Act the association or the Commission, as the case may be, shall not be bound to construct, equip, maintain or operate within the limits of the municipality any works provided for by the agreement, except such as may be necessary for the construction and equipment of the railway in passing through the municipality the corporation of which has failed to pass the necessary by-law and to execute the agreement to and from municipalities the corporations of which have executed the agreement and deposited debentures to the amounts stated therein. R.S.O. 1937, c. 260, s. 8.

Meeting to elect association.

9.—(1) As soon as practicable after the by-laws and agreements have been approved of by the electors and the agreements executed the head of the council of that corpora-

tion which by the agreement is liable to contribute the largest sum to the cost of the construction and equipment and working capital of the railway shall by notice to each corporation fix a time and place for a meeting of the representatives of the corporations to elect the members of a municipal electric railway association for the construction, equipment and operation or the operation only of the railway as the case may be, and a meeting for the election of a successor or successors shall be called in like manner.

(2) The council of each corporation shall by resolution appoint one of its members as its representative at such meeting, and such corporation shall be bound by the action of its representative at the meeting. Appointment of representative.

(3) The representatives shall appoint one of themselves to preside at the meeting and another person, not a representative, to act as secretary. Chairman and secretary.

(4) The association shall consist of five members elected or appointed as hereinafter provided and each member shall hold office for three years and until his successor is elected or appointed. Number of members and term of office.

(5) Each corporation which is liable under the agreement to contribute not less than 25 per cent of the cost of the construction and equipment and working capital of the railway shall be entitled to nominate and elect one member of the association, and a second member where it is liable to contribute not less than 50 per cent of such cost, and such member or members shall be elected by by-law of the council. Corporation contributing certain percentages entitled to elect one or two members.

(6) The voting power of each corporation for the election of the members other than those elected under subsection 5 shall be as follows: Voting power.

One vote where the contribution of the corporation to the estimated cost does not exceed	\$250,000
Two votes where it exceeds \$250,000 but does not exceed	\$500,000
Three votes where it exceeds \$500,000 but does not exceed	\$1,000,000
and one additional vote for each additional \$1,000,000 or fraction thereof which it is liable to contribute to the estimated cost.	

(7) A majority in number and votes of the representatives of the corporations shall be necessary in order to elect the members of the association or the remaining members thereof in the case provided for by subsection 5. Majority in number and votes necessary to elect.

Nominations
in case of
failure to
elect and ap-
pointment
by Lieut.-
Gov. in
Council.

(8) Where the corporations fail to elect the full number of members of the association under the preceding subsections, then the representatives of the corporations shall nominate one or more persons to complete the membership of the association, such nominations to be made by not less than 25 per cent of the representatives and 25 per cent of the votes of the representatives of the corporations, and the names of the persons so nominated shall be set out in a resolution of the meeting, certified by the chairman and the secretary of the meeting and submitted to the Lieutenant-Governor in Council and thereupon the Lieutenant-Governor in Council may appoint from such nominees the person or persons to complete the membership of the association.

Incorporation of association.

(9) The members so elected or appointed shall be a body corporate under the name of "The (*name of railway*) Municipal Electric Railway Association".

Vacancies.

(10) Whenever a vacancy occurs in the office of a member of the association by death, resignation or any other cause, the corporation in the case provided for by subsection 5 shall appoint, and in other cases the representatives of the corporations shall elect, in the manner provided by this section another person to fill the office for the remainder of the term, and a member of the association may resign his office by filing a notice thereof with the secretary of the association.

Member of council not eligible.

(11) No member of the council of any of the corporations shall be eligible for appointment as a member of the association.

Appointment of chairman and vice-chairman.

(12) The association at its first meeting shall appoint one of the members as chairman and another as vice-chairman, and a majority of the members shall form a quorum.

Salaries.

(13) The chairman, the vice-chairman and each of the other members of the association may be paid such salary or remuneration as may be fixed by the agreement, or as may be agreed upon from time to time by a resolution of the councils of a majority of the corporations and where no salary or remuneration is so fixed or agreed upon, the chairman shall be paid a salary of \$4,000, the vice-chairman \$3,000, and each of the other members \$2,000 yearly by the association.

Annual report of association to council of each corporation.

(14) Immediately after the close of each calendar year, the association shall prepare and report to the council of each of the corporations interested and publish a complete, audited and certified statement of its affairs including revenue and expense account, balance sheet and profit and loss statement, and the statement shall be accompanied by a general report of the operations of the association during the year and a certificate from a competent engineer as to the physical condition of the railway and its equipment and as to the

adequacy and sufficiency of the funds set apart for any renewals and replacements. R.S.O. 1937, c. 260, s. 9.

10. The association shall appoint a trust corporation with which the debentures of the corporations shall be deposited as required by this Act and shall notify each of the corporations of the appointment. R.S.O. 1937, c. 260, s. 10. Appointment of trust corporation.

11.—(1) Each of the corporations shall issue and deposit with the trust corporation named by the association debentures to the amount apportioned as its share of the cost of the construction and equipment and of working capital of the railway and the debentures shall be payable at the expiration of 44 years from the date of the agreement and bear interest at the rate of four and one-half per cent per annum payable semi-annually. Issue and deposit of debentures with trust corporation.

(2) Each of the corporations shall also from time to time thereafter upon the requisition in writing of the association and in the proportions fixed by the agreement, issue and deposit with the trust corporation such further debentures payable at the same time and bearing the same rate of interest as may be necessary to permit the association to raise the moneys, Issue and deposit of further debentures.

- (a) to cover any additional costs above estimates of such construction and equipment and for working capital of the railway;
- (b) for the construction and equipment and working capital of any extension of the railway if the agreement provides for extensions;
- (c) for the construction of branch lines, sidings, permanent works and betterments and of additional equipment, in all not exceeding 10 per cent of the estimated cost of the construction and equipment and the working capital of the railway as fixed by the agreement;
- (d) to cover any loss by discount on the sale of the bonds of the association.

(3) The debentures so issued shall be held by the trust corporation as collateral security for all bonds issued by the association to meet the cost of construction and equipment and for working capital of the railway, but whenever interest upon the bonds issued by the association as herein-after authorized is paid by the association the corresponding interest coupons attached to the debentures deposited by the corporations with the trust corporation shall be delivered up Debentures to be collateral security to bonds of association.

by the trust corporation for cancellation to all the corporations as are not in default in respect of their obligations to and agreements with the association. R.S.O. 1937, c. 260, s. 11.

Bonds of association.

12.—(1) The association may raise money for the construction and equipment and for working capital of the railway by the issue for and on behalf of the association of bonds payable at the expiration of 44 years from the date of the agreement and bearing interest at the rate of four and one-half per cent per annum payable semi-annually.

Issue of further bonds.

(2) The association may also from time to time issue further bonds payable at the same time and bearing interest at the said rate,

(a) to cover any additional costs above estimates of such construction and equipment and for working capital of the railway;

(b) for the construction and equipment and working capital of any extension of the railway if the agreement provides for extensions;

(c) for the construction of branch lines, sidings, permanent works and betterments and for additional equipment, in all not exceeding 10 per cent of the estimated cost of the construction and equipment and the working capital of the railway as fixed by the agreement;

(d) to cover any loss by discount on the sale of the bonds of the association.

Bonds not to exceed debentures and to rank *pari passu*.

(3) All bonds issued by the association shall rank *pari passu* and shall bear on their face the corporate name of the association, and the amount of the bonds which may be issued by the association shall not at any time exceed the amount of debentures deposited by the corporations with the trust corporation as collateral security for such bonds.

Mortgage deed securing bonds.

(4) The association shall secure such bonds by a deed of trust creating a charge in favour of the trust corporation on the railway and all the assets, rights, privileges, revenue, works, property and effects belonging thereto or held in connection therewith, and also upon the debentures of the corporations deposited with the trust corporation as collateral to the bonds of the association.

Bonds first charge on railway with exceptions.

(5) Subject to the payment of the working expenditures of the railway and to any prior charge or encumbrance in the case of a railway which has been purchased, the bonds of the association shall be a first preferential claim and charge upon

the railway and all the assets, rights, privileges, revenue, works, property and effects belonging thereto or held or used in connection therewith.

(6) No proceeding shall be taken to enforce payment of such bonds or of the interest thereon except through the trust corporation under the provisions of the said deed of trust. Enforcement of payment of bonds.

(7) The bonds shall be payable at the same time as the debentures of the corporations but it shall not be necessary for the association to raise or provide any sinking fund for the retirement of the bonds until after the expiration of three years from the date of the commencement of the operation of the railway or until after the expiration of five years from the date of the agreement, whichever is the shorter period. Raising of sinking fund delayed for certain period.

(8) When bonds issued by the association are purchased out of sinking fund and cancelled the corporations shall be relieved by the trust corporation of liability in respect of the debentures deposited by them with the trust corporation to a similar extent, and when convenient so to do debentures of the corporations in such amounts may be delivered up to them by the trust corporation for cancellation. Relief of corporations where bonds purchased out of sinking funds.

(9) During the course of construction and equipment of the railway the association may in lieu of selling its bonds raise money from time to time to meet the cost of such construction and equipment by borrowing upon the bonds authorized to be issued by it, and the association may hypothecate such bonds or any part thereof for such purposes. R.S.O. 1937, c. 260, s. 12. Hypothecation of bonds.

13. All debentures of the corporations and all bonds of the Commission shall be issued repayable on the sinking fund plan. R.S.O. 1937, c. 260, s. 13. Sinking fund plan only.

14.—(1) Where a railway or any part thereof is purchased and any bonds, debts or obligations stand charged against or upon it, the association may assume such bonds, debts and obligations as part of the purchase price to be paid for such railway or part thereof. Assumption of bonded debt in case of railway purchased.

(2) If the association assumes and agrees to pay such bonds or debts, the corporations shall deposit with the trust corporation in the proportions fixed by the agreement debentures to the amount of the debts assumed, bearing the same rate of interest and maturing at the same time as other debentures of the corporations deposited or to be deposited with the trust corporation. R.S.O. 1937, c. 260, s. 14. Corporations to deposit debentures for assumed debts.

15. The association shall so regulate and fix all tolls, tariffs of tolls and fares for the carriage of passengers and Requirement as to fixing tolls and fares.

freight that the revenue derived therefrom in each year will be sufficient to provide for,

- (a) the cost of maintenance and operation of the railway including the cost of the supply of electrical power or energy and the cost of administration;
 - (b) the cost of making such renewals and replacements as are properly chargeable to revenue;
 - (c) the payment of the interest on and in due course of the principal of any mortgage, encumbrance or debt forming a lien or charge on the property and works of a railway purchased under this Act; and
 - (d) the payment of the interest on and the formation by the association of a sinking fund sufficient to retire all outstanding bonds of the association at maturity.
- R.S.O. 1937, c. 260, s. 15.

Application
of surplus
revenue.

16.—(1) If in any year the revenue is more than sufficient to satisfy the costs, charges and payments mentioned in section 15, the association may pay over the surplus to the corporations, parties to the agreement, in the proportions fixed thereby, or may apply the surplus to meet the cost of the construction of branch lines, sidings, permanent works, and betterments, and of additional equipment, or may retain the surplus as a reserve fund to meet the cost of future operation or to meet contingencies.

Corporations
to meet
deficits in
operations.

(2) If in any year the revenue and any accumulated surplus revenue from prior periods is insufficient to satisfy the costs, charges and payments mentioned in section 15, the association shall within one month following the termination of the year make demand upon the corporations to provide and pay over to the association such sum as is necessary to make up the deficiency and the council of each of the said corporations shall forthwith raise and pay over to the Association its proportion, as fixed by the agreement, of such sum, together with interest thereon at the rate of six per cent per annum from the date of demand for payment thereof by the association.

Apportion-
ment by
association.

(3) The association shall from time to time adjust and apportion the amounts payable to the corporations under subsection 1 or by the corporations under subsection 2 and such adjustment and apportionment shall be final and binding upon the corporations. R.S.O. 1937, c. 260, s. 16.

Investment
of sinking
funds.

17. All sinking funds shall be paid over to and be invested by the trust corporation in bonds of Canada or Ontario or in bonds of the association which prior thereto had been sold by

the association and all bonds of the association so purchased out of sinking fund shall be cancelled by the trust corporation. R.S.O. 1937, c. 260, s. 17.

18. Any debentures issued under this Act shall not be included in ascertaining the limit of the borrowing powers of the corporations as prescribed by *The Municipal Act* or by any other general or special Act. R.S.O. 1937, c. 260, s. 18.

Borrowing powers, debentures not to be counted.
Rev. Stat., c. 243.

19.—(1) Where the agreement so provides the association with the consent expressed by by-law of each of the corporations, parties to the agreement, which may be passed without the assent of the electors, may enter into an agreement with the corporation of any adjacent municipality for the extension of the railway into such adjacent municipality.

Extension into adjacent municipality.

(2) The council of such adjacent municipality shall submit to the vote of the electors qualified to vote on money by-laws a by-law approving of the agreement and directing its execution as required in the case of a by-law and agreement for the construction and equipment of a railway.

Submission to electors.

(3) The provisions of this Act relating to the construction, equipment and operation of the railway shall apply to the construction, equipment and operation of such extension.

Application of Act to extensions.

(4) All debentures of the corporations and all bonds of the association issued for the construction, equipment and working capital of such extension shall be payable at the same time as the debentures and bonds issued for the construction and equipment of the railway.

Payment of debentures and bonds.

(5) After the corporation of such adjacent municipality has deposited debentures with the trust corporation to meet its portion of the cost of the construction, equipment and of the working capital of the extension it shall be deemed to be a party to the agreement for the construction and equipment of the railway. R.S.O. 1937, c. 260, s. 19.

Adjacent municipality as party to original agreement.

20. The association or the Commission may construct and equip or the association may construct, equip, maintain and operate the railway as provided by the agreement and for that purpose, subject to section 22, the association or the commission shall have and may exercise all the powers, rights, immunities and privileges of a company incorporated by special Act for the construction and operation of a railway under *The Railways Act*, so far as the same are applicable. R.S.O. 1937, c. 260, s. 21.

Powers as to construction and operation.

Rev. Stat., c. 331.

21.—(1) The association may enter into an agreement with the Commission for the operation of the railway by

Provision for operation by Commission.

the Commission as its agent, for a period not exceeding five years but such agreement may be renewed from time to time for further periods not exceeding five years at any one time.

Books and
accounts to
be kept.

(2) Where such an agreement is made the Commission shall maintain separate and distinct books and accounts with respect to the operation of the railway and all moneys received by it in connection with such operation shall be kept in a separate bank account and shall not be merged or mixed with the funds of the Commission derived from any other sources. R.S.O. 1937, c. 260, s. 22.

Expropria-
tion of land.

22.—(1) Where land is required for any of the purposes for which land may be acquired or expropriated under *The Railways Act* the association or the Commission, as provided by the agreement, shall in respect thereof have the powers and shall proceed in the manner provided by *The Public Works Act*, where the Minister of Public Works takes land or property for the use of Ontario and the provisions of the last-mentioned Act shall, *mutatis mutandis*, apply.

Rev. Stat.,
cc. 331, 323.

Compensa-
tion.

(2) Where compensation would be payable upon the exercise of any powers by the association or the Commission under *The Railways Act* the same shall be determined in the manner provided by *The Public Works Act*. R.S.O. 1937, c. 260, s. 23.

Provisions of
Rev. Stat.,
c. 331, how
far applic-
able.

23. Sections 65 to 68 of *The Railways Act* shall not apply to the association or the Commission or to any railway constructed, purchased or operated under this Act, but the construction, equipment and operation of such railway by the association or Commission shall be in accordance with the provisions of *The Railways Act* except where they are inconsistent with the provisions of this Act. R.S.O. 1937, c. 260, s. 24.

No action
against
Commission
without fiat
of Att'y-
Gen.

24. No action or prosecution shall be brought against the Commission or any member thereof or any of its officers without the consent of the Attorney-General for anything done under this Act, but this shall not apply to an association. R.S.O. 1937, c. 260, s. 25.

Province or
Commission
not liable
for errors
in estimates.

25. The Province shall not nor shall the Commission, or any member thereof incur any liability by reason of any error or omission in any estimates, plans or specifications prepared or furnished by the Commission. R.S.O. 1937, c. 260, s. 26.

Corporation
not to sell
any railway
without as-
sent of
electors.

26.—(1) Notwithstanding anything in any general or special Act heretofore passed by this Legislature, a corporation shall not sell or otherwise dispose of any electric railway or

street railway owned by it or of which it has acquired control by foreclosure or other proceedings or under the provisions of any special Act, unless a by-law authorizing such sale or other disposal has been submitted to and has received the assent of the electors qualified to vote on money by-laws according to the provisions of *The Municipal Act*.

Rev. Stat.,
c. 243.

(2) Every agreement or arrangement entered into by a corporation in violation of subsection 1 shall be null and void. R.S.O. 1937, c. 260, s. 27.

Agreement
in violation
of subs. 1 to
be void.

27. Such variations, additions or alterations as are in conformity with the provisions of this Act may be made to the agreement set out as Form 1 with the approval of the Lieutenant-Governor in Council. R.S.O. 1937, c. 260, s. 28.

Variations
in form of
agreement.

FORM 1

(Section 3)

THIS AGREEMENT made this day of 19.....
Between

The Corporations of
hereinafter called the "Corporations"

In this Agreement "Association" means "Municipal Electric Railway Association" elected or appointed as provided by
The Municipal Electric Railways Act.

WHEREAS pursuant to *The Municipal Electric Railways Act*, The Hydro-Electric Power Commission of Ontario hereinafter called the "Commission" at the request of the Corporations and after inquiry, examination and investigation into the various matters set out in section 2 of *The Municipal Electric Railways Act*, have reported to the Corporations that,

- (a) the cost of constructing, equipping and operating an electric railway in such municipalities including a sum for working capital and a sum to cover any probable loss by discount on the sale of the bonds of the Association will be.....;
- (b) the proportion of the capital cost to be borne by each of the Corporations is as set out in Schedule B attached hereto;
- (c) the population of each of such municipalities as shown by the last enumeration thereof by the assessors is
- (d) the estimated probable revenue from the railway will be

AND WHEREAS the Corporations have determined that it is in the interests of the inhabitants of such municipalities that the railway should be constructed, equipped and operated over the routes laid down in Schedule A attached hereto. *Where construction and equipment is by the Commission insert the following recital:* (And whereas the Corporations have determined that the railway should be constructed and equipped by the Commission and the Commission has agreed with the Corporations to construct and equip the railway but upon the express condition that the Commission shall not be in any way liable for any errors or omissions in the estimates, plans or specifications or for any financial or other obligations or loss whatsoever by virtue of the construction and equipment of the railway).

Where construction and equipment are by the Association insert the following recital: (And whereas it has been determined by the Corporations that the railway should be constructed and equipped by the Association).

And whereas the electors of each of the Corporations have assented to by-laws authorizing the Corporations to enter into this Agreement for the construction and equipment of the railway as laid down in Schedule A.

NOW THIS AGREEMENT WITNESSETH that each of the Corporations covenants and agrees with the other as follows:

1. The railway shall be constructed and operated over the routes laid down in Schedule A.

2. The character of the construction and equipment of the railway shall be as far as possible first class, modern and the standard and so as to give the best service and accommodation possible, having regard to the districts to be served.

3. To bear its share of the cost of construction and equipment and the amount to be provided for working capital of the railway by each Corporation as set out in Schedule B.

4. To issue and deposit with the Trust Corporation named by the Association, debentures to the amount set out in Schedule B as its share of the cost of the construction and equipment and of working capital of the railway, such debentures to be payable at the expiration of 44 years from the date of this Agreement and to bear interest at the rate of four and one-half per cent per annum, payable semi-annually.

5. Upon the requisition in writing of the Association and in the proportions fixed by this Agreement to issue and deposit with the Trust Corporation such further debentures payable at the same time and bearing the same rate of interest as may be necessary to permit the Association to raise the moneys,

- (a) to cover any additional costs above estimates of such construction and equipment and for working capital of the railway;
- (b) for the construction and equipment and working capital of any extension of the railway; (*This clause to be struck out if Agreement does not provide for extensions.*)
- (c) for the construction of branch lines, sidings, permanent works and betterments and for additional equipment, in all not exceeding 10 per cent of the estimated cost of the construction and equipment and the working capital of the railway as fixed by this agreement;
- (d) to cover any loss by discount on the sale of the bonds of the Association.

6. Electrical power or energy for the operation of the railway shall be supplied by the Commission in accordance with the agreement made with the Commission and the obligations of the Corporations thereunder shall be carried out by the Association.

(Here set out a synopsis of the terms and conditions of the Agreement, including the amount of power or energy to be supplied and the price to be paid and the terms of payment.)

7. The railway shall be constructed and equipped by the
(Association)
(Commission) as the case may be.

8. The management and operation of the railway shall be and are hereby entrusted to an Association to be elected or appointed as provided by *The Municipal Electric Railways Act*.

Where the railway is to be constructed on any right of way of the Commission add

9. The railway shall be constructed on the following right of way acquired by the Commission for the transmission of electrical power or energy.

(Here describe right of way in general terms but so as to identify it) in accordance with the agreement made with the Commission under which a rental of \$..... is to be paid to the Commission annually. The said rental shall be paid to the Commission by the Association on behalf of the Corporations.

If the Corporations determine that provisions should be made for extensions of the railway into any adjacent municipality add

10. The railway may be extended into any adjacent municipality under an agreement to be made between the Association and the Corporation of such municipality with the approval of the Corporations parties to this agreement.

Where the Corporations determine to acquire by purchase any steam, electric or street railway situate within one or more of such municipalities, or any parts of any steam, electric or street railway which are situate within one or more of such municipalities and capable of forming part of the proposed railway system appropriate recitals should be added to the agreement setting out the report of the Commission as to the purchase price and as to the other matters required in a report from the Commission in the case of the construction and equipment of a railway and the provisions of the agreement relative to construction and equipment of the railway should be altered or additions should be made thereto to cover the purchase of the railway or of any part or parts thereof.

Where the Corporations determine to lease or obtain running rights over any such railway or any such part or parts of a railway as above set out add

11. The railway or that part or those parts of the railway (describe the part or parts) as the case may be shall be leased by the Association upon the following terms and conditions (here set out the terms and conditions) and upon such other terms and conditions as the Association may deem proper and the Association shall execute the said lease and carry out its provisions on behalf of the Corporations.

Where the Corporations determine to obtain running rights as above set out add

12. The Association shall enter into an agreement with the Railway Company to obtain running rights over the Railway or over the following part or parts of the Railway (describe the part or parts) on the following terms and conditions (here set out terms and conditions).

13. To keep, observe and perform the covenants, provisoes and conditions set forth in this agreement intended to be kept, observed and performed by the Corporations and to execute such further or other documents and to pass such by-laws as may be requested by the Commission or the Association for the purpose of fully effectuating the object and intent of this agreement and of carrying out the provisions of *The Municipal Electric Railways Act*.

14. To perform and carry out all the duties and obligations cast upon it by *The Municipal Electric Railways Act*, with reference to the construction, equipment, maintenance and operation of the railway or of any extension of it.

15. Should the Corporation fail to perform any of its duties or obligations to the Association under this Agreement or under the said Act the Association may in addition to all other remedies and without notice discontinue the service of the railway to such Corporation until the said duty or obligation has been fulfilled and no such discontinuance of service shall relieve the Corporation in default from the performance of such duty or obligation.

In witness whereof each of the Corporations has affixed its corporate seal and the hands of its proper officers.

CHAPTER 249

The Municipal Franchises Act

1. In this Act,

Interpre-
tation.

- (a) "franchise" includes any right or privilege to which this Act applies;
- (b) "gas" includes natural gas, artificial gas, or any mixture of natural gas and artificial gas;
- (c) "highway" includes a street and a lane;
- (d) "public utility" includes waterworks, natural and other gas works, electric light, heat or power works, steam heating works, and distributing works of every kind. R.S.O. 1937, c. 277, s. 1.

2. A municipal corporation shall not enter into or renew any contract for the supply of electrical power or energy to the corporation or to the inhabitants thereof, until a by-law setting forth the terms and conditions of the contract has been first submitted to, and has received the assent of the municipal electors in the manner provided by *The Municipal Act*. R.S.O. 1937, c. 277, s. 2.

Assent to
contracts
for supply
of electric
power.Rev. Stat.,
c. 243.

3.—(1) A municipal corporation shall not grant to any person nor shall any person acquire the right to use or occupy any of the highways of the municipality except as provided in *The Municipal Act*, or to construct or operate any part of a transportation system or public utility in the municipality, or to supply to the corporation or to the inhabitants of the municipality or any of them, gas, steam or electric light, heat or power, unless a by-law setting forth the terms and conditions upon which and the period for which such right is to be granted or acquired has been assented to by the municipal electors.

Where
assent
required.Rev. Stat.,
c. 243.

(2) Subsection 1 shall not apply to The Hydro-Electric Power Commission of Ontario. 1947, c. 70, s. 1.

Hydro
Commission
exempt.

(3) Where the trustees of a police village request the council of the township in which the village is situate to grant any such right with respect to the village, or where the board of trustees of a police village desire to grant such a right, it shall be a sufficient compliance with subsection 1 if the by-law receives the assent of the municipal electors of the village.

In police
villages.

Renewals
and exten-
sions.

(4) This section shall apply to the renewal or extension of an existing franchise. R.S.O. 1937, c. 277, s. 3 (2, 3).

Consent of
council of
city, when
required.

4. The council of a local municipality shall not grant any franchise upon any highway of the municipality within a radius of five miles of the boundary of any city without notice in writing to the council of the city, and if the council of the city, within four weeks after the receipt of the notice, gives a notice in writing to the council of the local municipality that it objects to the granting of the franchise the approval of the Ontario Municipal Board shall be obtained, and if the council of the city does not give such notice within such time, it shall be deemed to have no objection and the council of the local municipality may grant the franchise with the assent of the municipal electors of the local municipality as provided by section 3. R.S.O. 1937, c. 277, s. 4.

Extension
of certain
existing
works not
to be made
without
by-law.

5.—(1) Where a by-law granting a franchise or right in respect of any of the works or services mentioned in subsection 1 of section 3, which has not been assented to by the municipal electors as provided by that subsection, was passed before the 16th day of April, 1912, no extension of or addition to the works or services constructed, established or operated under the authority of such by-law as they existed and were in operation at that date shall be made except under the authority of a by-law hereafter passed with the assent of the municipal electors, as provided by subsection 1 or subsection 3 of section 3, and such consent shall be necessary, notwithstanding that such last-mentioned by-law is expressly limited in its operation to a period not exceeding one year.

Exceptions
as to fran-
chises
granted
before 16th
March, 1909.

(2) Subsection 1 shall not apply to any franchise or right granted by or under the authority of any general or special Act of this Legislature before the 16th day of March, 1909, but no such franchise or right shall be renewed, nor shall the term thereof be extended by a municipal corporation except by by-law passed with the assent of the municipal electors as provided in section 3. R.S.O. 1937, c. 277, s. 5.

Exceptions,

6. Subject to section 2 and except as therein provided and except where otherwise expressly provided, this Act shall not apply to a by-law,

works
originating
in another
muni-
cipality;

(a) granting the right of passing through the municipality for the purpose of continuing a line, work or system which is intended to be operated in or for the benefit of another municipality and is not used or operated in the municipality for any other purpose except that of supplying gas in a township to persons whose land

abuts on a highway along or across which the same is carried or conveyed, or to persons whose land lies within such limits as the council by by-law passed from time to time determines should be supplied with any of such services;

- (b) conferring the right to construct, use and operate works required for the transmission of oil, gas or water not intended for sale or use in the municipality; oil, gas and waterworks;
- (c) which is expressly limited in its operation to a period not exceeding one year and is approved by the Ontario Municipal Board; limited to one year;
- (d) of a county or township which is approved by the Lieutenant-Governor in Council. R.S.O. 1937, c. 277, s. 6. Counties and townships.

7. Where a by-law to which clause *c* of section 6 applies is passed, that clause shall not apply to any subsequent by-law in respect to the same works or any part of them or to an extension of or addition to them, although the subsequent by-law is expressly limited in its operation to a period not exceeding one year, and no such subsequent by-law shall have any force or effect unless it is assented to by the municipal electors as provided by subsection 1 of section 3. R.S.O. 1937, c. 277, s. 7. Extension of one year franchise from year to year prohibited.

8.—(1) Notwithstanding anything in this or any other general or special Act, no person shall without the approval of the Lieutenant-Governor in Council construct any works to supply or supply, Approval for construction of gas works.

- (a) natural gas in any municipality in which such person was not on the 1st day of April, 1933, supplying gas; or
- (b) gas in any municipality in which such person was not on the 1st day of April, 1933, supplying gas and in which gas was then being supplied.

(2) No approval shall be given under this section by the Lieutenant-Governor in Council unless the Ontario Municipal Board certifies in writing to the Lieutenant-Governor that public convenience and necessity appear to require that such approval be given. When approval to be withheld.

(3) The Ontario Municipal Board shall have and may exercise jurisdiction and power necessary for the purposes of this section and to grant or refuse to grant any certificate of public convenience and necessity, but no such certificate shall be granted or refused until after the Board has held a public Jurisdiction of Ontario Municipal Board.

hearing to deal with the matter upon application made to it therefor, and of which hearing such notice shall be given to such persons and municipalities as the Board may deem to be interested or affected and otherwise as the Board may direct.

Appeal.

(4) With leave of a judge thereof, an appeal shall lie upon any question of law or fact to the Court of Appeal from any decision of the Ontario Municipal Board granting or refusing to grant a certificate under this section; provided application for leave to appeal is made within 15 days from the time when such decision is given.

Time for
issuing
certificate.

(5) The Ontario Municipal Board shall not issue any certificate under this section until after the expiration of 15 days from the time its decision to grant the same is given or in the event of an appeal from such decision until after the time when such appeal is determined or leave to appeal is refused.

Judgment
of Court of
Appeal to
be final.

(6) Upon an appeal to the Court of Appeal its judgment thereon shall be final and not subject to further appeal therefrom, and the Ontario Municipal Board shall, if and as may be necessary, amend or vary its decision to conform to such judgment and grant or refuse to grant a certificate under this section accordingly.

Application
of provisions
and rules of
practice.
Rev. Stat.,
c. 262.

(7) Subject as hereinbefore provided *The Ontario Municipal Board Act* shall apply to any proceedings before the Board under this section, and the rules of and practice in the Supreme Court shall apply to any appeal to the Court of Appeal under this section. R.S.O. 1937, c. 277, s. 8.

CHAPTER 250

The Municipal Health Services Act

1. In this Act,

Interpretation.

- (a) "Board" means Ontario Municipal Health Services Board established under this Act;
- (b) "Minister" means Minister of Health;
- (c) "municipality" means local municipality as defined in *The Municipal Act* and includes an improvement district and a school section in an unorganized township or unsurveyed territory; Rev. Stat., c. 243.
- (d) "municipal health services" has the meaning prescribed in the regulations. 1944, c. 41, s. 1.

2.—(1) The council of a municipality or the councils of two or more municipalities which have entered into an agreement therefor may by by-law provide for the establishment of a plan of municipal health services for the municipality or municipalities. Plan of health services.

(2) No agreement shall be entered into and no by-law shall be introduced under this section until the plan provided for therein has been approved by the Lieutenant-Governor in Council. 1944, c. 41, s. 2. Approval of Lieutenant-Governor in Council.

3.—(1) No by-law made and approved under section 2 shall come into force or have effect until the proposed plan has been submitted, either at the next municipal election or at such time as the council or councils may decide, to a vote as provided in this section. Vote on by-law.

(2) Where the entire cost of the proposed plan, except any portion which is to be paid by provincial contribution, is to be borne by a special rate imposed on the rateable property in the municipality, the proposed plan shall be submitted to a vote of the persons entitled to vote on money by-laws and unless a majority of the persons voting are in favour of the proposed plan, the plan shall not be established. where property tax.

(3) Where the entire cost of the proposed plan, except any portion which is to be paid by provincial contribution, is to be borne by a personal tax on the residents of the municipality, the proposed plan shall be submitted to a vote of the where personal tax.

municipal electors and unless a majority of the persons voting are in favour of the proposed plan, the plan shall not be established.

where
both taxes.

(4) Where part of the cost of the proposed plan is to be borne by a special rate imposed on the rateable property in the municipality, and the balance of the cost, except any portion which is to be borne by provincial contribution, is to be borne by a personal tax on the residents of the municipality, the proposed plan shall be submitted to a vote of the municipal electors and to a further vote of persons entitled to vote on money by-laws and unless a majority of the municipal electors so voting and a majority of the persons entitled to vote on money by-laws so voting are in favour of the proposed plan, the plan shall not be established. 1944, c. 41, s. 3.

Board.

4.—(1) There shall be a board known as the Ontario Municipal Health Services Board which shall be a body corporate and shall consist of not less than seven and not more than ten members who shall be appointed by the Lieutenant-Governor in Council and shall hold office during pleasure.

Chairman.

(2) The Board shall appoint one of its members to be chairman.

Powers
and duties.

(3) The powers and duties of the Board shall be defined in the regulations and, subject to the approval of the Lieutenant-Governor in Council, the Board may,

(a) enter into an agreement with any municipality which has enacted a by-law under section 2; and

(b) enter into an agreement with any person or with any medical, hospital or other association, corporate or otherwise, for the provision of municipal health services for any municipality which has entered into an agreement with the board.

Receiving
and dis-
bursement
of moneys.

(4) The Board may receive from any municipality which has enacted a by-law under section 2 all moneys collected by the municipality for the purpose of providing municipal health services and may disburse such moneys for the purpose of securing the provision of municipal health services and any expenses incidental thereto. 1944, c. 41, s. 4.

Municipal
committee.

5. The council of any municipality which has enacted a by-law under section 2 may appoint a committee of its members, or of other persons, which shall consist of not less than three and not more than five members, and the committee shall assist and advise the council in respect of any matter arising under this Act. 1944, c. 41, s. 5.

6.—(1) For the purposes of carrying out the provisions of any by-law under this Act the council of any municipality may levy and collect a personal tax in respect of every male and female resident in the municipality who is 17 years of age or over. Personal tax.

(2) The parent of a dependent child who is 17 years of age or over and less than 21 years of age shall be liable for the payment of the tax in respect of such child and a husband shall be liable for the payment of the tax in respect of his wife. Liability of parent and husband.

(3) Every person liable to pay a personal tax shall pay the tax to the treasurer of the municipality within one week of the date upon which the tax becomes due and payable under the by-law providing therefor, and in case of neglect or refusal to make such payment the collector may levy the amount of the tax and costs of distress, by distress and sale of the goods and chattels of such person. Time for payment.

(4) The assessor of the municipality may require any employer, whether the business of such employer is situated within or outside the municipality, to furnish him with a list of those of his employees who are resident within the municipality, and of the dates upon which they are paid their salary or wages, and every such employer shall advise the assessor of any changes therein which may occur. Returns from employers.

(5) The treasurer of the municipality may require any employer, whether the business of such employer is situated within or outside the municipality, to deduct from the salary or wages of all employees residing within the municipality the amounts which are payable to the municipality under this section and to pay such amounts to the municipality, and in the event that the employer fails or neglects to comply with such requirement he shall be personally liable for the amounts so payable. 1944, c. 41, s. 6. Deduction by employer.

7. For the purpose of carrying out the provisions of any by-law under this Act the council of a municipality may levy and collect a special rate upon all the rateable property within the municipality and all the provisions of *The Assessment Act* applicable to the levying and collecting of local rates shall apply to the special rate levied under this Act. 1944, c. 41, s. 7. Property tax. Rev. Stat., c. 24.

8.—(1) In a municipality in which a plan has been adopted, the assessor shall include in the assessment roll the name of every person who is a resident of the municipality within the meaning of the regulations and where part of the cost of the plan is to be borne by a personal tax the assessor shall enter after the name of every person who is liable to such tax the letters "P.T.". Assessment rolls.

Idem.

(2) Where the council of a municipality passes a resolution favouring the establishment of a plan of municipal health services, the council may direct the assessor to comply with the requirements of subsection 1 in the preparation of the next assessment roll. 1944, c. 41, s. 8.

Amount of taxes payable to Board.

9. A municipality shall pay to the Board an amount equal to the total levy made under section 6 or 7, or both, at such times as may be required by the regulations. 1944, c. 41, s. 9.

No liability to county.

10. A municipality which has established a plan of municipal health services, which includes hospital care, under this Act shall not be required to contribute to any levy made by a county for the costs of providing hospital care for indigent persons who are residents of the county. 1944, c. 41, s. 10.

Unorganized territory.

11. The Lieutenant-Governor in Council may make provision for furnishing municipal health services to the residents of any area which is without municipal organization and does not form part of a school section. 1944, c. 41, s. 11.

Contributions by Province.

12. The Lieutenant-Governor in Council may provide for the making of annual or other contributions to any municipality which has passed a by-law under this Act. 1944, c. 41, s. 12.

Consolidated Revenue Fund.

13. Expenses incurred under section 11 and contributions made under section 12 shall be paid out of the Consolidated Revenue Fund. 1944, c. 41, s. 13.

Further vote on plan.

14. At the first municipal election held after the termination of a period of three years from the date of the commencement of a plan for municipal health services, the plan shall again be submitted to a vote as in section 3 provided and shall not continue in force unless a majority of the persons voting as prescribed in section 3 are in favour thereof. 1944, c. 41, s. 14.

Alteration of plan.

15.—(1) A plan for municipal health services established under this Act shall not be altered or terminated except with the like approval as required by section 2.

Amendment of by-law.

(2) A by-law made under this Act shall be amended or repealed only with the like vote as is required for a by-law made under section 3.

Termination of plan.

(3) The Lieutenant-Governor in Council may terminate any plan for municipal health services and thereupon every by-law and agreement relating thereto shall be deemed to be revoked and terminated. 1944, c. 41, s. 15.

16. Where a scheme is terminated the Lieutenant-Governor in Council may provide for the disposition and application of any moneys collected under the provisions of this Act which are not required for the purpose of the plan. 1944, c. 41, s. 16.

Termination
of plan,
moneys
on hand.

17. Subject to the approval of the Lieutenant-Governor in Council, the Minister may make regulations which may be general or particular in their application,

Regulations.

- (a) respecting the establishment of municipal health services;
- (b) defining "municipal health services" and prescribing the type of service and the maximum services which may be provided under any plan;
- (c) defining the powers and duties of the Board and providing for the employment of assistants and the payment of the expenses of the Board out of such moneys as may come into its hands;
- (d) governing the amount and conditions of payment of provincial contributions;
- (e) defining the term "resident";
- (f) prescribing the periods within which a resident shall be liable for the payment of the rates and taxes imposed under this Act and the periods during which a resident shall be entitled to municipal health services in the municipality;
- (g) prescribing the dates upon which any rates or taxes levied in the municipality shall become due and payable and the manner in which they shall be paid;
- (h) providing for the exemption from taxation of any class of persons who are dependent in whole or in part upon contributions from public funds for their maintenance;
- (i) providing for the cancellation or reduction of the taxes of any person who from sickness or extreme poverty is unable to pay the taxes;
- (j) providing for the exemption from any tax imposed by this Act, or any portion thereof, of any class or group of persons who contribute to a plan for the provision of medical services or health services;
- (k) providing for the exemption of duly accredited members and adherents of any religious denomination designated by the regulations from any tax imposed under section 6 and from any tax imposed under

section 7 in respect of such portion of any premises as may be owned and occupied as a residence by any such member or adherent, upon such terms and conditions as may be prescribed;

- (*l*) providing for the cancellation or reduction of the taxes of any person who by reason of any gross or manifest error has been charged or overcharged;
 - (*m*) providing for the appointment of inspectors and prescribing their powers and duties;
 - (*n*) requiring the Board to report to the Minister;
 - (*o*) prescribing the forms;
 - (*p*) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1944, c. 41, s. 17.
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CHAPTER 251

The Natural Gas Conservation Act

1. In this Act,Interpre-
tation.

- (a) "Assistant Commissioner" means Assistant Natural Gas Commissioner appointed under this Act;
- (b) "Commissioner" means Natural Gas Commissioner appointed under this Act;
- (c) "Minister" means Minister of Mines;
- (d) "natural gas" includes any mixture of natural gas and artificial gas;
- (e) "Referee" means Natural Gas Referee appointed under this Act. R.S.O. 1937, c. 49, s. 1; 1941, c. 37, s. 1; 1942, c. 34, s. 24 (1).

2. The Minister shall control and regulate the production, transmission, distribution, sale, disposal and consumption of all natural gas produced in Ontario, and for that purpose shall have and may exercise the powers and duties hereinafter set forth. R.S.O. 1937, c. 49, s. 2.

Powers and
duties of
Minister.

3. The Minister shall make such orders or regulations and give such directions from time to time as he may deem proper for the due conservation of the supply of natural gas in Ontario and its transmission to and distribution in such localities and to such consumers, for such periods and at such times as, in the opinion of the Minister, may best serve the general public and particularly the users and consumers of natural gas for domestic purposes. R.S.O. 1937, c. 49, s. 3.

General
powers of
Minister as
to orders and
regulations.**4.** The Minister may make orders or regulations for,Orders and
regulations.

- (a) the closing and cutting off of the supply of natural gas to any corporation, company or individual;
- (b) the construction, alteration or use of any works, machinery, plant, or appliance in and for the development, production, transmission, supply, distribution, measurement, or consumption of natural gas;
- (c) the cutting off of the supply to consumers generally, or to any consumer or consumers in any locality for such periods or at such times as he may deem proper;

- (d) the limiting or restricting or taking away any right conferred upon any person to the use and consumption of natural gas without charge, and for the payment of such compensation to such person as he may deem proper in respect of such limitation, restriction or taking away;
- (e) the allotting or supplying of natural gas to consumers or persons generally or to any consumer or consumers, person or persons in any locality for such periods or at such times as he may deem proper;
- (f) the closing down and stopping up of any natural gas well or any works for the production, transmission, distribution or supply of natural gas; R.S.O. 1937, c. 49, s. 4; cls. (a-f).
- (g) the designation of any area as a gas storage area and the prohibition therein of the drilling or operating of natural gas wells without his written consent; 1948, c. 60, s. 1.
- (h) requiring returns to be made by any person producing, transmitting or distributing natural gas and for prescribing the form of any such return, the particulars to be included therein and the intervals at which such returns shall be made;
- (i) the appointment of such officers, agents, servants or workmen as may be necessary to carry out and enforce any order made by him under this Act;
- (j) compelling the installation of such appliances by consumers of natural gas, as he may deem requisite for preventing waste;
- (k) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1937, c. 49, s. 4, cls. (g-j).

Directions
for conserva-
tion of rare
gases.

5. Where the Minister is of the opinion that helium, argon or any other rare gas is found or is capable of production in commercial quantities in any part of the Province, the Minister may give such directions and may make such orders as he may deem proper compelling any owner, lessee or proprietor in such territory to close and keep closed for such time as the Minister may deem necessary any natural gas wells in such territory in such a manner that no gas may escape therefrom until such steps may have been taken as the Minister may deem necessary for the extraction and conservation of any such rare gas. R.S.O. 1937, c. 49, s. 5.

6. The Lieutenant-Governor in Council may appoint an officer to be known as the "Natural Gas Referee" who shall hold office during the pleasure of the Lieutenant-Governor in Council. R.S.O. 1937, c. 49, s. 6.

Office of
Natural Gas
Referee.

7.—(1) The Referee may make orders for,

Powers
of Referee.

- (a) fixing rates to be charged for natural gas;
- (b) compelling the owner, lessee or licensee of a pipeline to take gas produced by any person or corporation at such price, in such quantities, and on such terms as may be fixed by the Referee;
- (c) the disallowance of any rate charged for natural gas which he considers to be unjust or unreasonable or not conducive to the due conservation of the supply of natural gas in Ontario.

(2) No new rates and no alteration in existing rates for natural gas shall be put into effect until they have been approved by the Referee.

Referee to
approve new
or altered
rates.

(3) In fixing or approving rates for natural gas the Referee shall make no allowance for expenditures or losses caused by or resulting from the adoption of competitive methods which in the opinion of the Referee were unreasonable or improvident or were inconsistent with the due conservation of the supply of natural gas in Ontario.

Exclusion
of certain
losses in
fixing rates.

(4) The Referee may make any order under this section on a reference for such purpose by the Minister, without it being necessary that an application therefor be made by any person, or that any person be heard. R.S.O. 1937, c. 49, s. 7

Referee may
proceed
without
application.

8. The Referee, with the approval of the Lieutenant-Governor in Council, may make regulations prescribing the procedure to be followed upon applications to him. R.S.O. 1937, c. 49, s. 8.

Regulations
as to pro-
cedure.

9. The Minister and the Referee shall have regard to the provisions of any general or special Act or letters patent, or any agreement, franchise, bargain or arrangement whatsoever and by and between whomsoever made, but shall have power to depart from or vary such provisions where it is found upon inquiry that such action is necessary for conserving the supply or prolonging the service to consumers or furthering the search for or development of new sources of supply of natural gas. R.S.O. 1937, c. 49, s. 9.

How far
regard to
be had to
existing
provisions.

10.—(1) An order or decision of the Minister or of the Referee shall be a good and sufficient defence to any action

Obedience
to orders of
Minister or
Referee to
be a good
defence.

or other proceeding brought or taken against any person producing, transmitting, distributing or selling natural gas in so far as the act or omission which is the subject of such action or other proceeding is in accordance with the order or direction of the Minister or Referee.

Contractual
rights,
notice to
persons
claiming.

(2) No order shall be made which shall have the effect of destroying or suspending or limiting the contractual rights of any person or persons, company or corporation without such notice as the Minister or Referee may deem proper, having first been given to such person or persons, company or corporation, and without their being given a reasonable opportunity to present their claims to the Minister or Referee, and any order made by the Minister or the Referee may be reconsidered and varied if it is deemed proper upon the application of any person who deems himself aggrieved thereby. R.S.O. 1937, c. 49, s. 10.

Certain
orders of
Referee not
affected or
limited.

11. Nothing in section 9 or 10 shall in any way prevent, affect or limit the Referee from making any order under clause *c* of subsection 1 of section 7. R.S.O. 1937, c. 49, s. 11.

Commis-
sioner;
Assistant
Commis-
sioner.

12. The Lieutenant-Governor in Council may appoint officers to be known as the Natural Gas Commissioner and the Assistant Natural Gas Commissioner. R.S.O. 1937, c. 49, s. 12; 1941, c. 37, s. 2.

Remunera-
tion and
expenses.

13. The Lieutenant-Governor in Council may make orders providing for the remuneration and expenses of the Referee, Commissioner, officers, agents, servants or workmen in the administration of this Act. R.S.O. 1937, c. 49, s. 13.

Delegation
of powers
of Minister.

14. The Minister may delegate to the Commissioner any of the powers and duties which are exercisable by or conferred upon him by this Act. R.S.O. 1937, c. 49, s. 14.

Power of
Assistant
Commis-
sioner.

15. The Assistant Commissioner shall exercise and perform the powers and duties delegated, conferred or assigned to him by the Minister and shall, during any period which the Minister may designate, exercise all the powers and perform all the duties of the Commissioner. 1941, c. 37, s. 3.

Actions not
to lie for
things done
under Act.

16. No action or other proceeding shall lie against the Referee, Commissioner or any officer, agent, servant or workman for anything done, or purporting to be done under or in pursuance of the provisions of this Act. R.S.O. 1937, c. 49, s. 15.

17. In the exercise of the powers conferred by this Act, the Minister or the Commissioner by himself, or the officers, agents, servants, or workmen of the Department of Mines, or any other person authorized by the Minister or Commissioner, may at any time, Power as to lands and works.

- (a) enter upon, pass over, take up or use any private property or the property of any municipal corporation or of the Crown, or any public place or highway;
- (b) construct, install, lay down and set up or remove, take up, take down, alter or repair any works, plant, machinery or appliance used in the development, production, transmission, supply, distribution or consumption of natural gas,

and where any person has refused or neglected to do anything prescribed by the order of the Minister or by the regulations, the Minister may cause such thing to be done, and the expenses so incurred shall, when certified by the Minister in writing, signed by him, be a debt due from such person to the Crown and shall be recoverable with costs by action in any court of competent jurisdiction. R.S.O. 1937, c. 49, s. 16.

18. The Referee may review, rescind, change, alter or vary any decision or order made by himself or by the Referee under *The Natural Gas Conservation Act, 1921*, or by the Board appointed under *The Natural Gas Conservation Act, 1922*. R.S.O. 1937, c. 49, s. 17. Powers of Referee. 1921, c. 17; 1922, c. 23.

19. An appeal shall lie from the decision of the Referee to the Court of Appeal upon any question of law or fact. R.S.O. 1937, c. 49, s. 18. Appeal from Referee to Court of Appeal.

20. Save as herein provided, every decision or order of the Minister or of the Referee shall be final and shall not be questioned or reviewed in any court. R.S.O. 1937, c. 49, s. 19. Finality of decision of Referee.

21. Any order or regulation made or direction given by the Minister and any order made by the Referee under this Act may be made a judgment or order of the Supreme Court enforceable in the same manner as a judgment or order of such court to the like effect. R.S.O. 1937, c. 49, s. 20. Enforcement of orders, etc.

22.—(1) The costs of and incidental to any proceeding before the Referee shall be in his discretion and may be fixed in any case at a sum certain or may be taxed. Costs.

(2) The Referee may order by whom and to whom any costs are to be paid and by whom the same are to be taxed and allowed. Order for payment of costs.

Scale of
costs.

(3) The Referee may prescribe a scale under which such costs shall be taxed. R.S.O. 1937, c. 49, s. 21.

Offences and
penalties.

23.—(1) Every person who,

- (a) refuses or neglects to obey any order or direction made or purporting to be made under the authority of this Act after notice of such order or direction; or
- (b) hinders, delays or obstructs any person in carrying out the provisions of this Act; or
- (c) wastes or causes to be wasted any natural gas; or
- (d) tampers or interferes with any meter, stop-cock, cut-off or any other matter or thing placed or used or installed by or under the authority of this Act,

shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$10 and not more than \$2,000, and shall in default of the payment thereof be imprisoned for a term of not more than six months.

Penalty for
supplying
gas without
a permit.

(2) Every person who supplies gas for industrial purposes without a permit so to do issued under the regulations, or supplies an amount of gas in excess of that permitted by any such permit held by him, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$100 and not more than \$2,000 for every month or portion of a month during which such supply continues, or to imprisonment for a term of not more than six months. R.S.O. 1937, c. 49, s. 22.

Jurisdiction
of
Municipal
Board
excluded.

24. Works for the production, transmission and supply of natural gas shall not be deemed to be public utilities so as to give the Ontario Municipal Board any jurisdiction respecting the same. R.S.O. 1937, c. 49, s. 23.

Power to
administer
oaths.

25. In any matter arising under this Act, the Referee or Commissioner or any commissioner authorized to administer an oath may take an affidavit, or statutory declaration in any part of Ontario. R.S.O. 1937, c. 49, s. 24.

Powers of
Referee as to
hearing.

26. The Referee may hear any application at any place in Ontario that he may appoint and shall have the same power to compel the attendance of witnesses and to compel them to give evidence and produce documents as is vested in the Supreme Court in civil cases. R.S.O. 1937, c. 49, s. 25.

Application
of Act to
certain
contracts.

27.—(1) Nothing in this Act shall affect any existing contract or agreement between the owner of the land on

which a producing gas well is situate and the person operating the same; provided nevertheless, that no such owner of land shall at any time consume more than a reasonable quantity of gas under the right given to him by any such contract or agreement, and the Referee at the request of either party or any other person interested may fix and determine from time to time what is a reasonable quantity in any case.

(2) After notice in writing naming such quantity has been given to any owner or left at his usual place of abode, any refusal or neglect to comply with the terms thereof shall be an offence punishable in the manner provided by subsection 1 of section 23. R.S.O. 1937, c. 49, s. 26. Penalty for failure to comply with order.

28. This Act shall not apply to any person who on the 13th day of June, 1922, owned and transmitted through his own pipe lines a supply of natural gas for the purposes of his own industry. R.S.O. 1937, c. 49, s. 27. Act not to apply to owner using gas for his own purposes.

29.—(1) In the event of a dispute between a company and a municipal corporation or person with respect to any matter or thing arising out of any letters patent, deed, grant, contract, franchise, lease, agreement, bargain or arrangement whatsoever, the Minister, on the application of any party, may make an order prohibiting the company from cutting off, diminishing or otherwise interfering with the supply of natural gas to any or all of the inhabitants of a municipality, or to any person, pending the final determination of the rights in dispute between the parties in a court of competent jurisdiction. Order of Minister pending determination of rights.

(2) Any company which cuts off, diminishes or otherwise interferes with the supply of natural gas in contravention of any order made by the Minister shall be guilty of an offence punishable in the manner provided by subsection 1 of section 23. R.S.O. 1937, c. 49, s. 28. Penalty.

30.—(1) Licences may be issued by the Minister upon such terms, and subject to such conditions, and upon the payment of such fees as the Minister may prescribe, to persons for boring, prospecting for, transmitting or distributing natural gas, and no person shall bore or prospect for, produce, transmit or distribute natural gas in Ontario, who is not the holder of a licence from the Minister permitting him so to do. Licences.

(2) Every person who violates any provision of this section shall be guilty of an offence punishable as provided by subsection 1 of section 23. R.S.O. 1937, c. 49, s. 29. Penalty.

31. The provisions of this Act, including the power to make orders and regulations, shall apply to the transmission, Application of Act to artificial gas.

distribution, use and rates chargeable for any artificial gas which may be produced at any plant designated by the Lieutenant-Governor in Council. 1942, c. 34, s. 24 (2).

CHAPTER 252

The Negligence Act

1. In this Act,

Interpre-
tation.

- (a) "action" includes counterclaim;
 - (b) "defendant" includes a plaintiff against whom a counterclaim is brought;
 - (c) "plaintiff" includes a defendant who counterclaims.
- R.S.O. 1937, c. 115, s. 1.

2.—(1) Where damages have been caused or contributed to by the fault or neglect of two or more persons, the court shall determine the degree in which each of such persons is at fault or negligent, and, except as provided by subsections 2 and 3, where two or more persons are found at fault or negligent, they shall be jointly and severally liable to the person suffering loss or damage for such fault or negligence, but as between themselves, in the absence of any contract express or implied, each shall be liable to make contribution and indemnify each other in the degree in which they are respectively found to be at fault or negligent.

Extent of
liability,
remedy
over.

(2) In any action brought for any loss or damage resulting from bodily injury to, or the death of any person being carried in, or upon, or entering, or getting on to, or alighting from a motor vehicle other than a vehicle operated in the business of carrying passengers for compensation, and the owner or driver of the motor vehicle which the injured or deceased person was being carried in, or upon or entering, or getting on to, or alighting from is one of the persons found to be at fault or negligent, no damages, contribution or indemnity shall be recoverable for the portion of the loss or damage caused by the fault or negligence of such owner or driver, and the portion of the loss or damage so caused by the fault or negligence of such owner or driver shall be determined although such owner or driver is not a party to the action.

Where
plaintiff is
passenger.

(3) In any action founded upon fault or negligence and brought for loss or damage resulting from bodily injury to, or the death of any married person where one of the persons found to be at fault or negligent is the spouse of such married person, no damages, contribution or indemnity shall be recoverable for the portion of loss or damage caused by the

Where plain-
tiff is spouse
of negligent
person.

fault or negligence of such spouse, and the portion of the loss or damage so caused by the fault or negligence of such spouse shall be determined although such spouse is not a party to the action. R.S.O. 1937, c. 115, s. 2.

Recovery
as between
tort feorsors.

3. A tort feorsor may recover contribution or indemnity from any other tort feorsor who is, or would if sued have been, liable in respect of the damage to any person suffering damage as a result of a tort by settling with the person suffering such damage, and thereafter commencing or continuing action against such other tort feorsor, in which event the tort feorsor settling the damage shall satisfy the court that the amount of the settlement was reasonable, and in the event that the court finds the amount of the settlement was excessive it may fix the amount at which the claim should have been settled. 1948, c. 61, s. 1.

Plaintiff
guilty of
contributory
negligence.

4. In any action for damages which is founded upon the fault or negligence of the defendant if fault or negligence is found on the part of the plaintiff which contributed to the damages, the court shall apportion the damages in proportion to the degree of fault or negligence found against the parties respectively. R.S.O. 1937, c. 115, s. 3.

Where
parties to
be deemed
equally at
fault.

5. If it is not practicable to determine the respective degree of fault or negligence as between any parties to an action, such parties shall be deemed to be equally at fault or negligent. R.S.O. 1937, c. 115, s. 4.

Adding
party
defendant.

6. Whenever it appears that any person not already a party to an action is or may be wholly or partly responsible for the damages claimed, such person may be added as a party defendant or may be made a third party to the action upon such terms as may be deemed just. R.S.O. 1937, c. 115, s. 5; 1939, c. 47, s. 23.

Jury to
determine
degrees of
negligence
of parties.

7. In any action tried with a jury, the degree of fault or negligence of the respective parties shall be a question of fact for the jury. R.S.O. 1937, c. 115, s. 6.

When
plaintiff may
be liable for
costs.

8. Where the damages are occasioned by the fault or negligence of more than one party, the court shall have power to direct that the plaintiff shall bear some portion of the costs if the circumstances render this just. R.S.O. 1937, c. 115, s. 7.

Limitation
of actions.

9. Where an action is commenced against a tort feorsor or where a tort feorsor settles with a person who has suffered damage as a result of a tort, within the period of limitation

prescribed for the commencement of actions by any relevant statute, no proceedings for contribution or indemnity against another tortfeasor shall be defeated by the operation of any statute limiting the time for the commencement of action against such other tortfeasor provided,

- (a) such proceedings are commenced within one year of the date of the judgment in the action or the settlement, as the case may be; and
 - (b) there has been compliance with any statute requiring notice of claim against such tortfeasor. 1948, c. 61, s. 3.
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CHAPTER 253

The Niagara Parks Act

1. In this Act,

Inter-
pretation.

- (a) "Commission" means The Niagara Parks Commission, a corporation constituted under *The Queen Victoria Niagara Falls Park Act, 1887*, and taking its present name under *The Niagara Parks Act, 1927*; ^{1887, c. 13.} ^{1927, c. 24.}
- (b) "Parks" means Queen Victoria Park, Queenston Heights Park, Niagara River Parkways, Butler's Burying Ground, Drummond Hill Burying Ground and Lundy's Lane Battle Field and Cemetery and all other land heretofore or hereafter vested in or placed under the control of the Commission, including roads and boulevards and any interest in land and land covered with water. 1949, c. 64, s. 1.

2.—(1) The Commission is continued as a corporation with the objects, powers and duties prescribed in this Act. ^{Commission continued.}

(2) The Commission shall be composed of not more than eight members appointed by the Lieutenant-Governor in Council. ^{Composition.}

(3) The Lieutenant-Governor in Council may designate one of the members of the Commission as chairman. ^{Chairman.}

(4) Vacancies in the membership of the Commission may be filled by the Lieutenant-Governor in Council. ^{Vacancies.}

(5) The members of the Commission shall not be entitled to receive any remuneration or other compensation for their services except their actual expenses. ^{Compensation.}

(6) Notwithstanding *The Legislative Assembly Act*, any member of the Assembly may be appointed as a member of the Commission and be entitled to act as such without thereby vacating or forfeiting his seat or incurring any other penalty for sitting or voting as a member of the Assembly. 1949, c. 64, s. 2. ^{Members of Assembly. Rev. Stat., c. 202.}

3. It shall be the duty of the Commission to manage, control and develop the Parks and to further these objects the Commission may, ^{General powers and duties.}

- (a) lay out, plant and enclose the Parks;
- (b) construct and pull down buildings and structures;
- (c) construct and operate incline railways, aerial cars, lifts and works to assist the public in reaching and viewing the points of interest in the Parks;
- (d) construct or acquire by purchase, lease or otherwise and operate bridges over the Niagara River, and for that purpose enter into agreement with any authority having control of the territory beyond the International Boundary required for any such bridge, or enter into agreement for the joint construction and operation by the Commission and such authority of any such bridge;
- (e) construct and operate golf courses, bowling greens and swimming pools;
- (f) construct and operate restaurants, refreshment booths and stands for the sale of souvenirs and other wares;
- (g) construct and maintain toilet and other facilities for the convenience of the public;
- (h) acquire and operate buses and other vehicles for use in connection with the Parks;
- (i) acquire and operate boats for use in connection with the Parks;
- (j) operate a school for the training of apprentice gardeners;
- (k) make agreements with persons with respect to the establishment or operation by them of any works or services in connection with the Parks;
- (l) appoint such auditors, officers, clerks, keepers, gardeners and other persons as may be required;
- (m) receive and take from any person by grant, gift, devise, bequest or otherwise, any property, real or personal, or any interest therein;
- (n) make grants of money and provide services for educational purposes or for any purpose that may serve to publicize or foster interest in the Parks; and
- (o) make such by-laws, rules and orders as may be deemed expedient for the constitution of the Commission and the administration of its affairs and do such other things as may be necessary or advisable to properly exercise its powers and discharge its duties. 1949, c. 64, s. 3.

4.—(1) With the approval of the Lieutenant-Governor in Council the Commission may borrow money to meet its indebtedness accruing due, or for purchasing or otherwise acquiring real or personal property, or making improvements, or for any other purpose of the Commission, and may issue bonds, debentures, notes or other securities to provide for the repayment of any moneys so borrowed, and such securities may be payable at such times and in such manner and at such place or places in Canada or elsewhere, and may bear such interest as the Commission may deem proper. Issue of securities.

(2) The Lieutenant-Governor in Council may authorize the Treasurer of Ontario for and on behalf of Ontario to guarantee the payment of any securities issued by the Commission for any of the purposes mentioned in subsection 1. 1949, c. 64, s. 4. Guaranteeing securities.

5. The Lieutenant-Governor in Council may, subject to such conditions as he may deem proper, vest in the Commission any portion of the foreshore or bed of the Niagara River or land covered with water in the Niagara River that lies in front of the Parks and that is the property of the Crown in right of Ontario. 1949, c. 64, s. 5. Foreshore and river bed.

6. Subject to the approval of the Lieutenant-Governor in Council, the Commission may, Acquisition of land.

- (a) acquire by purchase, lease or otherwise;
- (b) without the consent of the owner, enter upon, take and expropriate; and
- (c) sell or otherwise dispose of,

any land or any interest in land. 1949, c. 64, s. 6.

7.—(1) The Commission in the exercise of its powers to take land compulsorily shall have all the powers conferred by *The Public Works Act* on the Minister of Public Works in relation to a public work, and in the application of this section where the words “the Minister”, “the Department” or “the Crown” appear in such Act they shall, where the context permits, mean the Commission. Expropriation. Rev. Stat., c. 323.

(2) The Commission shall proceed in the manner provided by *The Public Works Act* where the Minister of Public Works enters upon, takes or uses land or property for the use of Ontario and all the provisions of that Act shall apply *mutatis mutandis*. Procedure.

(3) Upon the deposit in the proper registry or land titles office of a plan and description of the land acquired by the Commission, signed by the chairman of the Commission and Mode of perfecting title.

by an Ontario land surveyor, the land so described shall thereupon vest in the Commission. 1949, c. 64, s. 7.

Highways.

8.—(1) Notwithstanding any general or special Act, the Lieutenant-Governor in Council may vest any highway in any municipality in the Commission and thereafter the Commission shall have exclusive jurisdiction over it.

Idem.

(2) The Commission and the corporation of any municipality may enter into agreement as to the acquisition by the Commission or by the municipality of any highway or any land therefor or as to the establishing, laying out, opening, grading, paving, altering, constructing, reconstructing, maintaining or repairing of any highway, including the cost or the apportionment of the cost of the same and the payment thereof.

Compensation payable by municipality.

(3) Every agreement entered into under subsection 2 shall provide that the cost of any lands acquired pursuant thereto and all compensation payable in respect of such acquisition or for injurious affection to lands by reason of any work undertaken under any such agreement shall be borne and paid solely by the corporation of the municipality entering into the agreement. 1949, c. 64, s. 8.

Controlled access highways.

9.—(1) The Lieutenant-Governor in Council may designate any portion of any of the highways, roads, boulevards or parkways of the Commission as a controlled access highway.

Regulations.

(2) The Lieutenant-Governor in Council may, in respect of any portion of any such highway, road, boulevard or parkway so designated, make any regulation that he may make in respect of controlled access highways under *The Highway Improvement Act*. 1949, c. 64, s. 9.

Rev. Stat., c. 166.

Local improvement works.

10.—(1) The Commission may enter into agreement with the corporation of any municipality that adjoins or is within three miles of the lands of the Commission as to any work of any of the characters or descriptions mentioned in *The Local Improvement Act*, and the Commission may agree to contribute any sum towards the cost of any work undertaken, either in cash or by annual or other instalments or otherwise, but the Commission shall not be liable in any way for assessment under *The Local Improvement Act*, for the cost of any such work, whether the lands abut directly on the work or otherwise, and the lands shall remain exempt from assessment and taxation.

Rev. Stat., c. 215.

Assent of electors not required.

(2) It shall not be necessary to submit any agreement entered into under this section for the assent of the electors

of the municipality, nor shall it be necessary to receive the assent of the electors of the municipality for the issue of debentures to defray the cost of the work undertaken under any such agreement. 1949, c. 64, s. 10.

11. *The Public Vehicles Act* shall apply to the highways and public places of the Commission except that as to such highways and public places the Commission shall be deemed to be substituted for the Department of Highways and for the Lieutenant-Governor in Council, and the licence fees and tolls and the penalties imposed under that Act shall be payable to the Commission. 1949, c. 64, s. 11.

12.—(1) Subject to any order of the Lieutenant-Governor in Council, the Commission may continue to collect the revenues and rentals payable or collectable under the several agreements made between the Commission and the Canadian Niagara Power Company, Limited, the Ontario Power Company, the Electrical Development Company of Ontario, Limited and The Hydro-Electric Power Commission of Ontario.

(2) The Commission with the approval of the Lieutenant-Governor in Council may,

- (a) enter into agreement with any person to take water from the Niagara River or from the Niagara and Welland Rivers, at points within the Parks, for the purpose of enabling such person to generate power within the Parks, and to conduct and discharge the water through and across the Parks or otherwise in such manner, for such rental, and upon such terms and conditions as may be embodied in the agreement, and any such agreement may include provisions as to the removal or demolition of any buildings or structures and the re-erection of the same, or the erection of other buildings or structures; and

- (b) renegotiate any existing agreement for the development of power from the Niagara River.

(3) No agreement entered into or renegotiated under subsection 2 shall become operative until it is confirmed by resolution of the Assembly. 1949, c. 64, s. 12.

13. With the approval of the Lieutenant-Governor in Council the Commission, upon terms to be agreed upon, may grant any rights over or in respect of lands of the Commission that may be required for the purpose of building

any new bridge over the Niagara River or of confirming the present occupation of land by any presently existing bridge company, but nothing in this section shall authorize the granting of any such rights over or in respect of Queen Victoria Park. 1949, c. 64, s. 13.

Application
of revenue.

14.—(1) All moneys received by the Commission shall be applied in the discharge of its duties and obligations.

Surplus
money.

(2) Any surplus moneys shall, on the order of the Lieutenant-Governor in Council, be paid to the Treasurer of Ontario and shall form part of the Consolidated Revenue Fund. 1949, c. 64, s. 14.

Books of
account.

15. The Commission shall cause books to be kept and true and regular accounts to be entered therein of all moneys received and paid and of the several purposes for which the same were received and paid, and such books shall be open to the inspection of any member of the Commission, the Treasurer of Ontario or any person appointed by the Commission or Treasurer for that purpose, and any such person may make copies of or take extracts from the books. 1949, c. 64, s. 15.

Security
by officers.

16. Every person who is entrusted by the Commission with the custody or control of money in the course of his employment shall give security in the manner and form provided by *The Public Officers Act*. 1949, c. 64, s. 16.

Rev. Stat.,
c. 311.

Audit.

17. The books and records of the Commission shall be examined annually by the provincial Auditor or such other auditor as may be designated by the Lieutenant-Governor in Council. 1949, c. 64, s. 17.

Annual
report.

18.—(1) The Commission shall after the close of each fiscal year of the Commission file with the Provincial Secretary an annual report setting forth the revenue and expenditure of the year as shown by the audited statement and such other matters as may appear to be of public interest in relation to the Parks or as the Lieutenant-Governor in Council may direct.

to be laid
before
Assembly.

(2) The Provincial Secretary shall submit the report to the Lieutenant-Governor in Council and shall then lay the report before the Assembly, if it is in session, or if not, at the next ensuing session. 1949, c. 64, s. 18.

Regulations.

19.—(1) The Commission, with the approval of the Lieutenant-Governor in Council, may make regulations,

- (a) regulating and governing the use by the public of the Parks and the works, vehicles, boats, services and things under the jurisdiction of the Commission;
- (b) providing for the protection and preservation from damage of the property of the Commission;
- (c) prescribing tolls for the occupation and use of Park lands and works, vehicles, boats, golf courses, bowling greens, swimming pools and services under the jurisdiction of the Commission, for opening and closing graves or any class thereof in any cemetery in the Parks, and for entrance to places of historical and scenic interest or any other occupation or uses of a similar nature;
- (d) prescribing permits designating privileges in connection with the use of the Parks or any part thereof and prescribing fees for such permits;
- (e) regulating and governing vehicular and pedestrian traffic in the Parks or any part thereof and prohibiting the use of any class or classes of vehicles in the Parks or any part thereof;
- (f) prohibiting or regulating and governing the erection, posting up or other display of notices, signs, sign boards and other advertising devices in the Parks or within one-quarter mile of any part thereof;
- (g) licensing, regulating and governing taxi-cabs and other vehicles for hire and the owners and drivers thereof, and prescribing fees for such licences;
- (h) licensing, regulating and governing guides and prescribing fees for such licences;
- (i) prescribing terms and conditions under which horses, dogs and other animals may be allowed in the Parks or any part thereof;
- (j) for imposing penalties not exceeding \$100 for any breach of any regulation.

(2) Any offence against any regulation made under this Act shall be punishable under *The Summary Convictions Act* and the penalty for any such offence shall be payable to the Commission. 1949, c. 64, s. 19. Offences.
Rev. Stat.,
c. 379.

20. Nothing in this Act shall authorize the interference with any right to inter the body of any deceased person in any burying ground vested in the Commission and nothing in this Act shall confer the right to remove any body there interred. 1949, c. 64, s. 20. Rights of
interment
not affected.

CHAPTER 254

The Notaries Act

1. Subject to section 5, the Lieutenant-Governor may by ^{Appointment.} commission appoint such persons as he thinks fit as notaries public for Ontario. R.S.O. 1937, c. 224, s. 1.

2. A notary shall during pleasure have, use and exercise ^{Powers.} the power of drawing, passing, keeping and issuing all deeds and contracts, charterparties and other mercantile transactions in Ontario, and also of attesting all commercial instruments that may be brought before him for public protestation, and otherwise of acting as is usual in the office of notary, and may demand, receive and have all the rights, profits and emoluments rightfully appertaining and belonging to the calling of a notary public. R.S.O. 1937, c. 224, s. 2.

3. A notary public shall be *ex officio* a commissioner for ^{Power to take affidavits.} taking affidavits in Ontario. R.S.O. 1937, c. 224, s. 3.

4. A notary public shall be deemed to be an officer of the ^{Officers of court.} Supreme Court. R.S.O. 1937, c. 224, s. 4.

5.—(1) Any person, other than a barrister or solicitor, ^{Examination.} desirous of being appointed a notary public, shall be subject to examination in regard to his qualification for the office by the judge of the county or district court of the county or district in which he resides, or by such other person as may be appointed in that behalf by the Lieutenant-Governor, and no such person shall be appointed a notary public without a certificate from such judge, or such other person, that he has examined the applicant and finds him qualified for the office, and that in his opinion a notary public is needed for the public convenience in the place where the applicant resides and intends to carry on business.

(2) The Lieutenant-Governor in Council may make regula- ^{Idem.} tions for such examination and certificate, and the judge or other person examining shall be entitled to receive from the person examined a fee of \$5 for the examination. R.S.O. 1937, c. 224, s. 5.

6. Where a person, other than a barrister or solicitor, is ^{Restrictions in case of lay} appointed a notary public, restrictions may be imposed in the ^{appointees.}

commission limiting the territory and cases in which such person may use and exercise his powers. R.S.O. 1937, c. 224, s. 6.

Notary
public need
not affix seal
on affidavits,
etc.

7. Where, under the authority of any Act of Ontario, a notary public is authorized to administer oaths or to take affidavits or declarations within Ontario it shall not be necessary to the validity of any such oath, affidavit or declaration that he shall affix his seal thereto. R.S.O. 1937, c. 224, s. 7.

Revocation
of appoint-
ment in cer-
tain cases.

8. The disbarment of a barrister or the striking off the roll of a solicitor who holds an appointment as a notary public shall have the effect of revoking such appointment. 1948, c. 63, s. 1.

CHAPTER 255

The Nursery Stock Act

1. In this Act,

Interpretation.

- (a) "Department" means Department of Lands and Forests;
- (b) "forestry purposes" means the growing of trees for timber, lumber, fuel-wood, pulpwood, ties, saw-logs and other forest products;
- (c) "nursery stock" means coniferous or hardwood seedlings, transplants, cuttings, rooted cuttings, grafts or trees propagated or grown in a nursery. R.S.O. 1937, c. 43, s. 1.

2. No person shall, directly or indirectly or on any pretence or device, sell or expose or keep for sale for any valuable consideration any nursery stock given free of charge for any purpose whatsoever or sold by the Department for reforestation, windbreak planting or forestry purposes. R.S.O. 1937, c. 43, s. 2.

Sale of nursery stock obtained free of charge prohibited.

3. No person shall knowingly make any false statement of fact in any application required by the Department to be made for the gift or sale of nursery stock to such person by the Department. R.S.O. 1937, c. 43, s. 3.

False statement in application.

4. Every person who contravenes any of the provisions of this Act shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$5 and not more than \$50 for each offence. R.S.O. 1937, c. 43, s. 4.

Penalty.



CHAPTER 256

The Nurses Act

1. In this Act,

Interpre-
tation.

- (a) "certified nursing assistant" means a person who may be designated as a certified nursing assistant under section 5;
- (b) "Director" means Director of Nurses Registration appointed under this Act;
- (c) "Minister" means Minister of Health;
- (d) "register" means register of nurses and nursing assistants maintained under this Act, and "registered" has a corresponding meaning;
- (e) "registered nurse" means a person who may be designated as a registered nurse under section 5;
- (f) "regulations" means regulations made under this Act. 1947, c. 71, s. 1.

2. There shall be a Director of Nurses Registration who shall be appointed by the Lieutenant-Governor in Council and shall exercise such powers and perform such duties as may be conferred or imposed by the regulations or the Minister. 1947, c. 71, s. 2.

Director of
Nurses
Registra-
tion.

3. There shall be a register of nurses and nursing assistants which shall be maintained by the Director. 1947, c. 71, s. 3.

Register.

4.—(1) Subject to the regulations, a training school for nurses or a training course for nursing assistants may be established, maintained and conducted in any hospital, sanatorium, sanitarium or university.

Training
schools
and
courses.

(2) No person shall establish, maintain or conduct a training school or training course for nurses or nursing assistants, or train or instruct or hold himself out as being able or willing to train or instruct persons to become nurses or nursing assistants, except in accordance with the regulations. 1947, c. 71, s. 4 (1, 2).

Compliance
with regula-
tions.

(3) Any person who contravenes the provisions of sub-section 2 shall be guilty of an offence and on summary conviction

Penalty.

tion shall be liable to a penalty of not less than \$50 and not more than \$100 for a first offence and a penalty of not less than \$100 and not more than \$500 for each subsequent offence. 1947, c. 71, ss. 4 (3), 7.

Registration
as nurse.

5.—(1) A graduate of a training school for nurses shall, upon payment of the prescribed fee, be entitled to be registered as a nurse and while so registered may be designated as a "registered nurse".

Registration
as nursing
assistant.

(2) A graduate of a training course for nursing assistants shall, upon payment of the prescribed fee, be entitled to be registered as a nursing assistant and while so registered may be designated as a "certified nursing assistant". 1947, c. 71, s. 5.

Use of title
"registered
nurse".

6.—(1) No person other than a registered nurse shall use the title "registered nurse" either alone or in combination with any word or words, or any name, title or description implying that he or she is or was registered as a nurse under this Act.

Use of title
"certified
nursing
assistant".

(2) No person other than a certified nursing assistant who is registered shall use the title "certified nursing assistant" either alone or in combination with any word or words, or any name, title or description implying that he or she is or was registered as a nursing assistant under this Act. 1947, c. 71, s. 6 (1, 2).

Penalty.

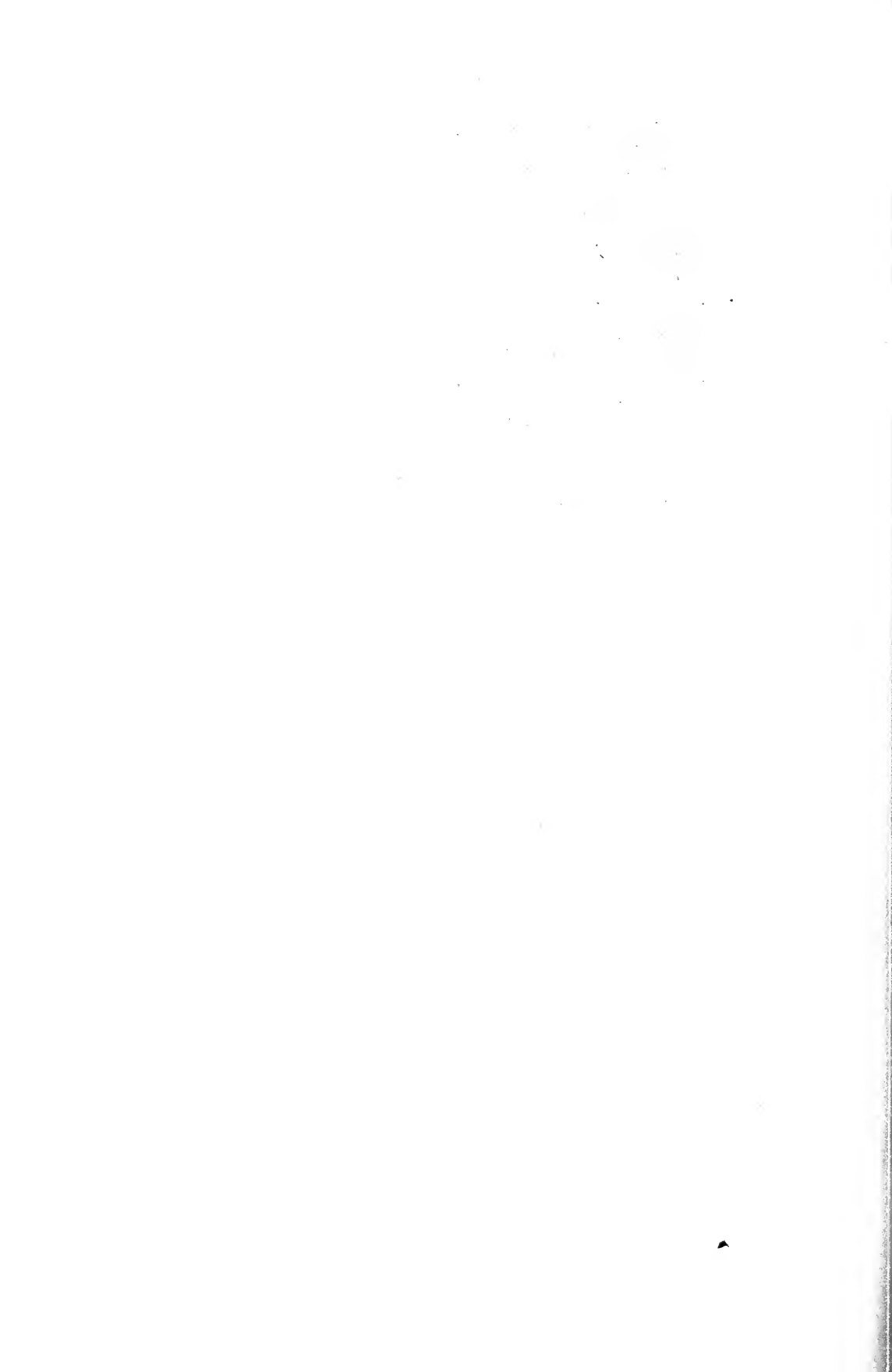
(3) Any person who contravenes the provisions of subsection 1 or 2 shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100. 1947, c. 71, ss. 6 (3), 7.

Regulations.

7. The Lieutenant-Governor in Council may make regulations,

- (a) regulating the establishment, maintenance and conduct of training schools for nurses and training courses for nursing assistants;
- (b) prescribing the requirements for admission to training schools for nurses and training courses for nursing assistants;
- (c) providing for the holding of examinations for nurses or nursing assistants who are in attendance at or graduates of training schools or training courses, as the case may be;
- (d) governing the registration of graduates of training schools or training courses located within or without

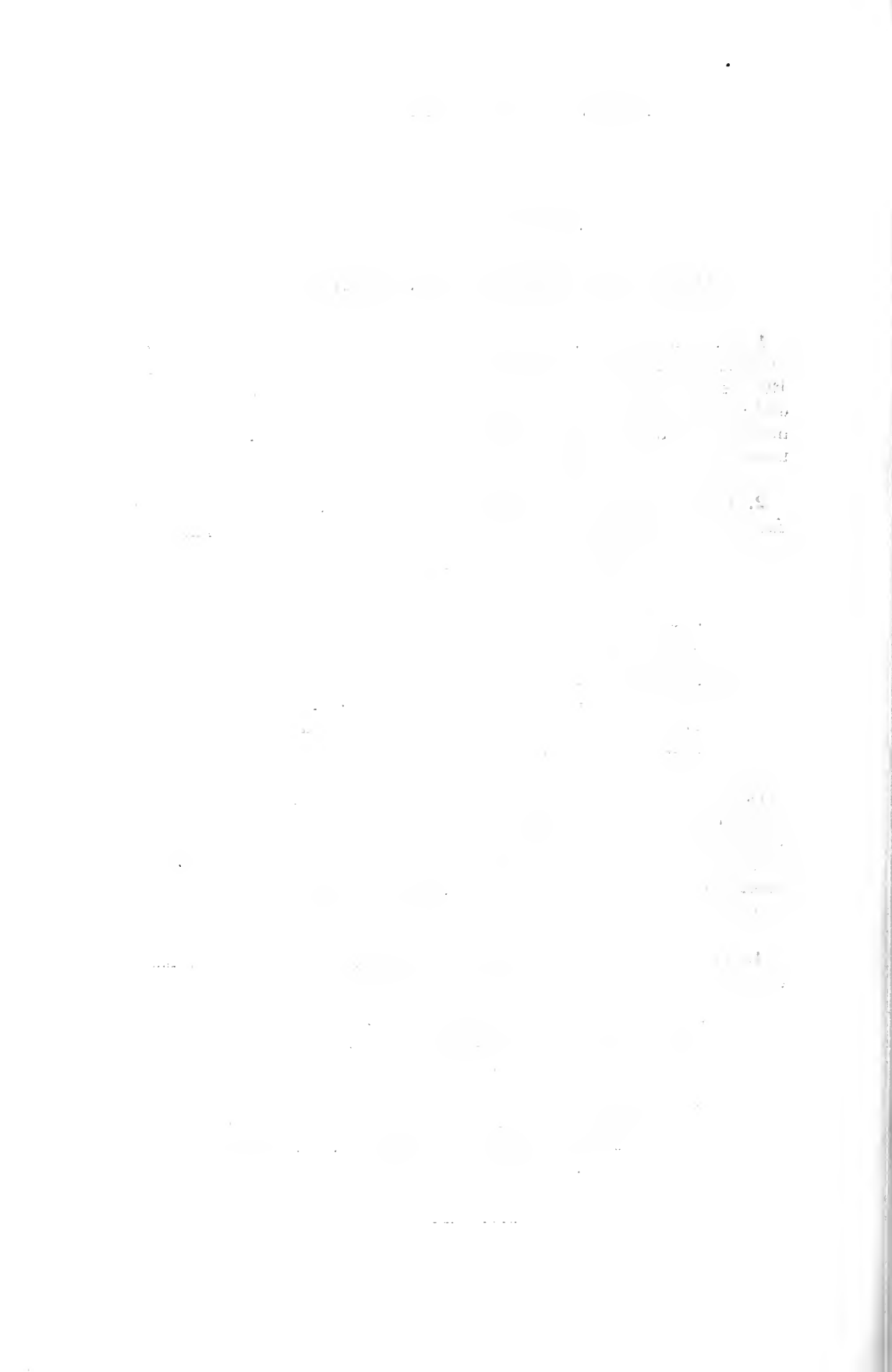
- Ontario and prescribing registration fees and providing for the issue, suspension and cancellation of certificates of registration;
- (e) prescribing the powers and duties of the Director;
 - (f) providing for the inspection of training schools and training courses;
 - (g) providing for the establishment of a council to be known as the Council of Nurse Education, and prescribing the powers and duties of the council;
 - (h) providing for and regulating the establishment, maintenance and conduct of post-graduate courses of instruction for registered nurses;
 - (i) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1947, c. 71, s. 8.
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CHAPTER 257

The Official Notices Publication Act

- 1.** *The Ontario Gazette*, being the official notices publication of Ontario authorized by chapter 6 of the Statutes of Ontario, 1868, shall be published by the King's Printer at the times and in the form and style now established or at such times or in such form and style as the Lieutenant-Governor in Council may order. 1949, c. 65, s. 1. *The Ontario Gazette* authorized.
- 2.** Unless another mode of publication is authorized by law, there shall be published in *The Ontario Gazette*, Notices, etc., to be published.
- (a) all proclamations issued by the Lieutenant-Governor;
 - (b) all notices, orders, regulations and other documents relating to matters within the authority of the Legislature that require publication; and
 - (c) all advertisements, notices and publications that are required to be given by the Crown or by any department of the Government of Ontario, or by any public authority, or by any officer or person. 1949, c. 65, s. 2.
- 3.** If in any Act of the late Province of Upper Canada or of the late Province of Canada in force in Ontario and being within the authority of the Legislature, any notice is directed to be given in the *Upper Canada Gazette* or in the *Canada Gazette* the same shall be given in *The Ontario Gazette*. 1949, c. 65, s. 3. Notices published under Acts of Upper Canada or Canada.
- 4.** The Lieutenant-Governor in Council may make regulations, Regulations.
- (a) prescribing the rates that shall be paid for publication of matters in *The Ontario Gazette* and prescribing the time and manner of payment of such rates;
 - (b) prescribing the rates that shall be paid by subscribers to *The Ontario Gazette* and by others for copies thereof and prescribing the time and manner of payment of such rates. 1949, c. 65, s. 4.
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CHAPTER 258

The Old Age Pensions Act

1. In this Act,

Interpre-
tation.

- (a) "Commission" means The Old Age Pensions Commission appointed under this Act;
- (b) "investigator" means any person designated as such under the regulations;
- (c) "local authority" means an investigator and in addition where there is a welfare unit means the public welfare administrator or where there is no welfare unit means the clerk of the municipality or such other person as the council with the approval of the Minister may appoint;
- (d) "local board" means local board provided for in the regulations;
- (e) "Minister" means Minister of Public Welfare;
- (f) "pension" means a pension payable as an old age pension or a blind pension under the *Old Age Pensions Act* (Canada) or any other Act of the Parliament of Canada and "pensioner" has a corresponding meaning; R.S.C., 1927, c. 156.
- (g) "regulations" means regulations made under this Act. 1948, c. 64, s. 1; 1949, c. 95, s. 10 (1).

2.—(1) The Minister with the approval of the Lieutenant-Governor in Council may enter into an agreement with the Minister of National Health and Welfare with the approval of the Governor-General in Council as to a general scheme of old age pensions or blind pensions, or both, in Ontario pursuant to any Act of the Parliament of Canada and for the payment by Canada to Ontario quarterly of an amount equal to one-half or more of the net sum paid out during the preceding quarter by Ontario for old age pensions or blind pensions, or both, pursuant to this Act. Agreement with Dominion Government authorized.

(2) No change shall be made in any scheme for old age pensions or blind pensions that has been approved by the Governor-General in Council, by regulations or otherwise, except with the approval of the Governor-General in Council. Change in scheme.
1948, c. 64, s. 2.

Old Age
Pensions
Commission.

3.—(1) The Lieutenant-Governor in Council may appoint one, two or three persons as a commission to be known as The Old Age Pensions Commission.

Chairman.

(2) Where the Commission consists of more than one person, the Lieutenant-Governor in Council may designate one of them as chairman.

Quorum.

(3) Where the Commission consists of three persons, a majority shall be a quorum. 1948, c. 64, s. 3.

Duties of
Commis-
sion.

4. It shall be the duty of the Commission,

- (a) to receive applications for pensions; and
- (b) to determine the eligibility of each applicant for a pension and where the applicant is eligible, to determine the amount thereof and direct payment accordingly. 1948, c. 64, s. 4.

Decisions
final.

5. Subject to the right of the Commission to rescind or amend any determination or direction made by it, every determination and direction of the Commission shall be final and shall not be subject to review by any court of law or otherwise. 1948, c. 64, s. 5.

Pension not
liable to
taxation,
attachments,
etc.

6. Every pension shall be exempt from provincial and municipal taxes and shall not be subject to garnishment or attachment or seizure or any legal process and shall be unassignable. 1948, c. 64, s. 6.

When pen-
sion to be
paid to
trustee.

7. In the case of any pensioner,

- (a) who, in the opinion of the Commission, is using or likely to use his pension otherwise than for his own benefit or is incapacitated or incapable of managing his affairs;
- (b) for whom a committee or trustee has been appointed; or
- (c) who consents to the payment of the pension to a person who is undertaking or liable for his maintenance and care,

the Commission may direct that the pension shall be paid to a trustee or other person to be expended for the benefit of the pensioner. 1948, c. 64, s. 7.

Pensioners
not dis-
qualified
from voting.

8. The receipt of a pension shall not by itself disqualify any person from voting at any provincial or municipal election. 1948, c. 64, s. 8.

9. Where a pension has been paid and upon audit by officials of the Government of Canada, the Government of Canada refuses to pay any amount in respect thereof, the Lieutenant-Governor in Council may direct that all payments which at that time have been made shall be deemed to be expenses incurred in the administration of this Act. 1948, c. 64, s. 9.

Refusal by
Dominion
Government
to make
payments.

10. Where a pension has been paid and officials of the Government of Canada, upon an audit, rule that overpayments have been made to the pensioner, the Lieutenant-Governor in Council may direct that the amount of such overpayments shall be deemed to be expenses incurred in the administration of this Act. 1948, c. 64, s. 10.

Over-
payments.

11. If under the authority of the Parliament of Canada, or for any other reason whatsoever, the Government of Canada ceases to make the contributions provided for under the *Old Age Pensions Act* (Canada), or any other Act of the Parliament of Canada pursuant to which pensions are paid under this Act, or fails to carry out the agreement entered into under the authority of this Act, the right to the granting or continuance of any pension under this Act shall thereupon cease and determine and no further payment of pensions shall be made under this Act. 1948, c. 64, s. 11.

Right to
pension to
cease on
Dominion's
failure to
contribute.
R.S.C. 1927,
c. 156.

12.—(1) The Commission shall be entitled to recover out of the estate of any deceased pensioner, as a debt due by the pensioner to the Commission, the sum of the pension payments made to such pensioner from time to time.

Recovery
of pension
payments
out of
deceased
pensioner's
estate.

(2) No claim shall be made by the Commission for the recovery of such debt directly or indirectly out of any part of the pensioner's estate that passes by will or on any intestacy to any other pensioner or to any person who has, since the grant of such pension or for the last three years during which such pension was paid, regularly contributed to the support of the pensioner by the payment of money or otherwise to the extent which, having regard to the means of the person so having contributed, is considered to be reasonable. 1948, c. 64, s. 12.

Right not
to extend to
property
passing to
another
pensioner
or to person
maintaining.

13.—(1) Notice (Form 1) of the granting of a pension to any person may be registered in the proper registry or land titles office, and shall set out,

Registration
of notice.

- (a) the name and residence of the person to whom a pension has been granted;
- (b) the date when the pension was granted;

- Rev. Stat.,
c. 197.
- (c) a description of the land owned by a pensioner or in which he has any interest, sufficient for the purpose of registration, and, where the land is registered under *The Land Titles Act*, a reference to the number of the parcel of the land and to the register in which such land is registered in the land titles office. 1948, c. 64, s. 13 (1).
- Notice.
- (2) The notice shall be in duplicate, signed by a member of the Commission, and sealed with the seal of the Commission approved by the Minister for use by the Commission. 1950, c. 79, s. 13 (2).
- Charge
against
lands.
- (3) Upon registration the notice shall operate as a charge against the lands described therein in an amount equal to the amount of pension paid to the pensioner as of the date of the discharge of the notice or the date of the death of the pensioner, whichever is the earlier.
- Registration
fee.
- (4) The fee for registration of the notice shall be 75 cents.
- Discharge
of notice,
- (5) A notice registered under the provisions of this section may be discharged by a certificate (Form 2) signed by any member of the Commission, accompanied by an affidavit of execution.
- fee.
- (6) The fee for registration of a discharge shall be 50 cents. 1948, c. 64, s. 13 (3-6).
- Regulations.
- 14.** The Lieutenant-Governor in Council may make regulations,
- (a) governing the manner of making application for a pension;
 - (b) providing for the suspension and cancellation of pensions;
 - (c) providing for a cost-of-living or other bonus to pensioners or any class or group thereof;
 - (d) providing for the whole or part of the cost of providing medical and dental services to pensioners or any class or group thereof;
 - (e) providing for the designation of persons as investigators and prescribing their powers and duties;
 - (f) prescribing the powers and duties of local authorities;
 - (g) providing for the payment of the expenses incurred by local authorities in connection with this Act, and their remuneration;

- (h) providing for the appointment of local boards and prescribing their powers and duties;
- (i) providing for the furnishing of notices and information by local authorities to the Commission and by the Commission to local authorities;
- (j) providing for the making of investigations respecting persons to whom pensions may be paid or who are in receipt of pensions or by whom or on whose behalf application has been made for a pension;
- (k) prescribing the material or proof of any fact, including evidence under oath, that shall be furnished as a condition precedent to the payment of a pension;
- (l) fixing the intervals at which and the manner in which pensions shall be paid;
- (m) prescribing forms for use under this Act;
- (n) respecting any other matter necessary or advisable to carry out effectively the purposes of this Act. 1948, c. 64, s. 14.

15.—(1) Where there is no welfare unit the council of any municipality not within a welfare area may, subject to the approval of the Minister, appoint any person as a local authority for such municipality for the purposes of this Act, but until such an appointment is made the clerk of such municipality shall be a local authority. 1948, c. 64, s. 15 (1); 1949, c. 95, s. 10 (2).

(2) Every local authority shall, for the purposes of this Act, be a commissioner for taking affidavits within the meaning of *The Commissioners for taking Affidavits Act*. 1948, c. 64, s. 15 (2).

16. Pensions and the expenses of administration of this Act shall be payable out of such moneys as may be appropriated therefor by the Legislature. 1948, c. 64, s. 16.

FORM 1

(Section 13(1))

NOTICE GRANTING OLD AGE PENSION

I,, of the City of Toronto,
in the County of York,, hereby give notice
that on the day of, 19....., an old age
pension, under the provisions of *The Old Age Pensions Act*, was granted to

.....
(Name of Pensioner)
of the of in the
..... (County or District)
of.....

.....
(Occupation)

The following is a description of the land which the said
..... owns or has an interest in:
(Name of Pensioner)

.....
(Description of Land)
This notice is given for the purpose of registration in the
..... of the
(Registry or Land Titles Office)
..... of
(City, County or District)

Dated at Toronto this day of,
19.....

1948, c. 64, Form 1.

FORM 2

(Section 13(5))

CERTIFICATE OF DISCHARGE

The Notice dated the day of, 19.....,
and registered as No. in the
(Registry or Land Titles Office)
for the of, in respect of
(Description of Land)
is discharged.

DATED at Toronto this day of,
19.....

1948, c. 64, Form 3.

CHAPTER 259

The Oleomargarine Act

1. In this Act,

Interpre-
tation.

- (a) "oleomargarine" means any food substance other than butter, of whatever origin, source or composition that is prepared for the same uses as butter;
- (b) "Minister" means Minister of Agriculture;
- (c) "package" means any wrapper, carton, box, tub, crock, crate or any other covering or container;
- (d) "public eating place" means any place where food or drink is offered for sale to the public for consumption on the premises and includes an hotel, inn, restaurant, public conveyance, victualling house and lunch counter;
- (e) "regulations" means regulations made under this Act. 1949, c. 66, s. 1.

2. Every keeper of a public eating place where oleomargarine is served as such shall,

Oleomargarine served in public eating places.

- (a) where a menu is used, cause to be displayed thereon in a conspicuous manner the words "Oleomargarine is served here";
- (b) where a menu is not used, cause to have displayed in a conspicuous manner in each room or place where food is served a sign or placard bearing the words "Oleomargarine is served here" in letters large enough to be distinctly seen from all parts of each room or place. 1949, c. 66, s. 2.

3. No person shall mix oleomargarine with butter for purposes of sale or for use in any public eating place. 1949, c. 66, s. 3.

Mixing oleomargarine and butter prohibited.

4. No oleomargarine shall have a tint or shade containing more than one and six-tenths degrees of yellow, or of yellow and red collectively, measured in terms of the Lovibond tintometer scale read under conditions substantially similar to those established by the United States Bureau of Internal Revenue, or the equivalent of such measurement. 1949, c. 66, s. 4.

Colouring.

Packaging.

5. Every package containing oleomargarine shall have legibly marked thereon in addition to anything required under any Act of the Parliament of Canada or of this Legislature,

- (a) the word "oleomargarine" or the trade name of the contents; and
- (b) a list of the ingredients in the oleomargarine and the percentage of each such ingredient. 1949, c. 66, s. 5.

Licence to manufacture or sell by wholesale.

6.—(1) No person shall manufacture or sell by wholesale oleomargarine without a licence therefor from the Minister.

Unlawful manufacture, etc.

(2) No person shall manufacture, sell, offer for sale, have in his possession for sale or serve in any public eating place any oleomargarine which does not comply with the provisions of this Act or the regulations. 1949, c. 66, s. 6.

Regulations.

7. The Lieutenant-Governor in Council may make regulations,

- (a) providing for the issue of licences to manufacturers and wholesalers of oleomargarine and prescribing the form, term and conditions thereof and the fees to be paid therefor, and providing for the transfer, renewal, suspension or cancellation thereof;
- (b) prescribing standards of quality for oleomargarine;
- (c) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1949, c. 66, s. 7.

Offences and penalties.

8. Every person who contravenes any provision of this Act or any regulation shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$500 or to imprisonment for not more than six months, or to both fine and imprisonment. 1949, c. 66, s. 8.

CHAPTER 260

The One Day's Rest in Seven Act

1. This Act shall be in force in every city and in every town having a population of 10,000 or over. R.S.O. 1937, c. 193, s. 1. ^{Application of Act.}

2. Except as hereinafter mentioned, every employer of labour, whether a person, partnership or corporation engaged in carrying on any hotel business, restaurant or cafe shall allow every person, employed in any such hotel business, restaurant or cafe at least 24 consecutive hours of rest in every 7 days, and wherever possible such 24 consecutive hours shall be on a Sunday. R.S.O. 1937, c. 193, s. 2. ^{24 hours rest in every week.}

3. Section 2 shall not apply to,

Exceptions.

(a) watchmen, janitors, superintendents or foremen;

(b) employees who are not employed for more than 5 hours in any one day,

but nothing in this Act shall authorize any work on Sundays now prohibited by law. R.S.O. 1937, c. 193, s. 3; 1942, c. 34, s. 25.

4. Every employer who contravenes this Act shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100. R.S.O. 1937, c. 193, s. 4. **Penalty.**

CHAPTER 261

The Ontario Food Terminal Act

1. In this Act,

**Interpre-
tation.**

- (a) "Board" means Ontario Food Terminal Board;
- (b) "fruit and produce" includes dairy products, eggs, fish, honey, maple products, poultry and vegetables;
- (c) "manager" means manager appointed under this Act;
- (d) "Minister" means Minister of Agriculture;
- (e) "regulations" means regulations made under this Act;
- (f) "securities" includes bonds, debentures and promissory notes;
- (g) "Terminal" means Ontario Food Terminal. 1946, c. 63, s. 1; 1948, c. 87, s. 10.

2.—(1) The Ontario Food Terminal Board heretofore constituted is continued as a body corporate and shall have a corporate seal in the form prescribed by the regulations. 1946, c. 63, s. 2 (1), *amended*.

**Ontario
Food
Terminal
Board.**

(2) The Board shall consist of not more than seven persons appointed by the Lieutenant-Governor in Council.

**Members of
Board.**

(3) The Lieutenant-Governor in Council may appoint one of the members of the Board to be chairman and one of the members to be vice-chairman.

**Chairman,
vice-chair-
man.**

(4) A majority of the members of the Board shall constitute a quorum.

Quorum.

(5) The members of the Board shall receive such fees and expenses as the Lieutenant-Governor in Council may determine and any member of the Board who is charged with the performance of any special services may be paid such additional remuneration therefor as the Lieutenant-Governor in Council may determine. 1946, c. 63, s. 2 (2-5).

**Allowances
and ex-
penses.**

3.—(1) Subject to the approval of the Lieutenant-Governor in Council, the Board may appoint a manager of the Terminal and such officers as may be prescribed by the regulations and fix their remuneration, and the appointment of any person as a

**Officers,
remunera-
tion.**

manager or other officer shall not disqualify him from acting as chairman, vice-chairman or a member of the Board.

Employees.

(2) Subject to the approval of the Board, the manager of the Terminal may appoint such employees as he deems necessary and fix their salaries or other remuneration. 1946, c. 63, s. 3.

Objects of Board.

4.—(1) The objects of the Board shall be,

(a) to acquire, construct, equip and operate a wholesale fruit and produce market in the County of York to be known as the Ontario Food Terminal and to acquire and operate such facilities for the transportation and handling of fruit and produce as may be necessary for the purposes of the Terminal; and

(b) to do such other acts as may be necessary or expedient for the carrying out of its operations and undertakings.

Power to borrow money and issue securities.

(2) The Board shall have power to borrow money and to issue securities for the purpose of carrying out any of its objects and to make such securities payable as to principal and interest at such time or times and in such manner and at such place or places as the Board may determine. 1946, c. 63, s. 4 (1, 2).

General objects and powers. Rev. Stat., c. 59.

(3) The Board shall have the objects and powers set out in sections 23 and 24 of *The Companies Act*. 1946, c. 63, s. 4 (3); 1949, c. 67, s. 1.

Agreements.

5. The Board may rent space in the Terminal to such persons and upon such terms as to the Board may seem proper and may make such arrangement and enter into such agreement with any such person as it may deem advisable in the circumstances. 1946, c. 63, s. 5.

Guarantee by Province.

6.—(1) The Lieutenant-Governor in Council may authorize the Treasurer of Ontario for and on behalf of Ontario to guarantee the payment of any securities issued by the Board, the repayment of any advances made by banks to the Board and the payment of any other indebtedness incurred by the Board.

Form of guarantee.

(2) The form of any such guarantee and the manner of its execution shall be determined by the Lieutenant-Governor in Council. 1946, c. 63, s. 6.

Application of moneys.

7. All moneys received by the Board from the operation of its undertakings or otherwise shall be applied to,

- (a) operating expenses;
- (b) payment of interest on indebtedness; and
- (c) repayment of principal moneys borrowed,

and any surplus moneys remaining in any year after paying for operating expenses, interest on indebtedness and the repayment of any part of the principal moneys payable in that year shall be used in reducing the cost of operating the Terminal, reducing the fees, rents or other charges charged or made by the Board or for the setting up of such reserve funds as the Board may determine. 1946, c. 63, s. 7.

8. The Board shall, not later than the 31st day of January in every year, make an annual report to the Minister upon its operations during the preceding year and the report shall be laid before the Assembly as soon as may be. 1946, c. 63, s. 8.

Annual report of Board.

9. The books and accounts of the Board shall be audited and checked from time to time by the Provincial Auditor or such other auditor as the Lieutenant-Governor in Council may designate and such auditor shall make an annual report to the Treasurer of Ontario. 1946, c. 63, s. 9.

Audit.

10. The Board may be sued and may institute or defend proceedings in any court. 1946, c. 63, s. 10.

Authority to sue and be sued.

11. The real and personal property, business and income of the Board shall be exempt from all assessment and taxation made, imposed or levied by or under the authority of any Act of the Legislature but, with the approval of the Lieutenant-Governor in Council, any land owned by the Board may be made subject to assessment and taxation for municipal and school purposes at the actual value thereof according to the average value of the land in the locality, or at such value as may be agreed upon by the council of the local municipality and the Board. 1946, c. 63, s. 11.

Taxation.

12. No person shall establish or operate within the City of Toronto or the Counties of York or Peel any market for the sale by wholesale of fruit and vegetables except with the approval of the Board, but this section shall not apply to any such market which was being regularly and continuously operated as of the 1st day of May, 1946, so long as it is not extended or enlarged. 1946, c. 63, s. 12; 1949, c. 67, s. 2.

Markets in Toronto, York and Peel.

13. Subject to the approval of the Lieutenant-Governor in Council, the Minister may make regulations,

Regulations.

- (a) prescribing the officers of the Board and prescribing the powers and duties of such officers and of the manager;
 - (b) prescribing the form of the seal of the Board;
 - (c) limiting or regulating the objects and powers of the Board or the exercise thereof;
 - (d) prescribing the records, books and accounts to be kept by the Board;
 - (e) regulating the operation and management of the Terminal;
 - (f) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1946, c. 63, s. 13.
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CHAPTER 262

The Ontario Municipal Board Act

PART 1

INTERPRETATION

1.—(1) In this Act,

Interpreta-
tion.

- (a) "Board" means Ontario Municipal Board;
- (b) "local board" means any school board, public utility commission, transportation commission, public library board, board of park management, local board of health, board of commissioners of police, planning board or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes, including school purposes, of a municipality or of two or more municipalities or portions thereof;
- (c) "municipality" means a county, city, town, village or township and includes the corporation thereof and also includes every local board thereof;
- (d) "public utility" means any waterworks, gasworks, including works for the production, transmission, distribution and supply of natural gas, electric heat, light and power works, and telegraph or telephone lines, or any works supplying the general public with necessities or conveniences. R.S.O. 1937, c. 60, s. 1; 1949, c. 69, s. 1.

(2) The interpretation sections of *The Railways Act* shall apply to this Act. R.S.O. 1937, c. 60, s. 2.

Interpre-
tation under
Rev. Stat.,
c. 331.

2. The provisions of this Act relating to railways shall apply to all railways, whether operated by steam, electricity or other motive power, including street railways. R.S.O. 1937, c. 60, s. 3.

Application
of Act to all
railways.

3. Where in any general or special Act reference is made to the Ontario Railway and Municipal Board or to that board under any other name, it shall be deemed that such reference is made to the Board as named in this Act. R.S.O. 1937, c. 60, s. 4.

References
to former
board.

PART II

CONSTITUTION OF BOARD

Municipal
Board
continued.

4. The Ontario Municipal Board shall continue under the provisions of this Act. R.S.O. 1937, c. 60, s. 5, *amended*.

Composition
of Board.

5.—(1) The Board shall be composed of as many members as the Lieutenant-Governor in Council may from time to time determine. 1947, c. 73, s. 1 (1), *part*.

Appoint-
ments to
Board.

(2) The members shall be appointed by the Lieutenant-Governor in Council and of them one shall be appointed as chairman, one as senior vice-chairman and another as junior vice-chairman. 1950, c. 49, s. 1.

Vacancies.

6. Vacancies in membership of the Board caused by death, resignation or otherwise may be filled by the Lieutenant-Governor in Council. R.S.O. 1937, c. 60, s. 8.

Tenure of
office.

7. Members of the Board shall hold office during pleasure. R.S.O. 1937, c. 60, s. 9, *amended*.

Powers of
vice-chair-
men where
no chairman.

8. Where,

(a) the chairman is absent or unable to act or the office of chairman is vacant, the senior vice-chairman; or

(b) the chairman and the senior vice-chairman are absent or unable to act or the offices of chairman and senior vice-chairman are vacant, the junior vice-chairman,

shall have and exercise the jurisdiction and powers of the chairman, including the power to complete any unfinished matter. 1950, c. 49, s. 2, *part*.

Presumption
of having
duly acted.

9. Whenever it appears that a vice-chairman has acted for and instead of the chairman, it shall conclusively be presumed that he has so acted in the absence or disability of or vacancy in the office of the chairman or of the chairman and the other vice-chairman, as the case may be. 1950, c. 49, s. 2, *part*.

Powers of
Board on
vacancy.

10. A vacancy in membership of the Board or the absence or inability of a member to act shall not impair the powers of the Board or of the remaining members who shall exercise all the jurisdiction and powers of the Board. R.S.O. 1937, c. 60, s. 12.

Quorum.

11.—(1) Two members of the Board shall form a quorum and be sufficient for the exercise of all the jurisdiction and

powers of the Board, and not less than two members shall attend at the hearing of every case.

(2) All orders, rules, regulations, certificates and other documents made or issued by the Board may be signed by the chairman or a vice-chairman. 1950, c. 49, s. 3, *part*. Signature of orders, etc.

12. The chairman shall from time to time assign the members of the Board to its various sittings and may change any such assignments at any time and the chairman may from time to time direct any officer or other member of the staff of the Board to attend any of the sittings of the Board and may prescribe his duties. 1950, c. 49, s. 3, *part*. Assignment of members and staff for sittings.

13. The chairman, when present, shall preside at all sittings of the Board, and his opinion upon any question of law shall prevail. R.S.O. 1937, c. 60, s. 15. Questions of law.

14. The chairman may authorize any one of the members to report to the Board upon any question or matter arising in connection with the business of the Board, and when so authorized such member shall have all the powers of the Board for the purpose of taking evidence and acquiring the necessary information for the purpose of such report, and upon the report being made to the Board, it may be adopted as the order of the Board or otherwise dealt with as to the Board seems proper. R.S.O. 1937, c. 60, s. 16; 1950, c. 49, s. 4. Reference to a member.

15. Whenever a member of the Board is interested in any matter before the Board, the Lieutenant-Governor in Council may, upon the application of such member or otherwise, appoint a disinterested person to act as a member, *pro hac vice*, and the Lieutenant-Governor in Council may also appoint a person to act as member during the illness, absence or inability to act of any member. R.S.O. 1937, c. 60, s. 17. Appointments pro hac vice.

16. Unless otherwise authorized by statute or the rules of the Assembly or the Lieutenant-Governor in Council, the members shall devote the whole of their time to the performance of their duties as members of the Board, and shall not accept or hold any office or employment inconsistent with such duties. R.S.O. 1937, c. 60, s. 18. Attendance to duties.

17. No member or officer of the Board shall, directly or indirectly, Prohibition against,

- (a) hold, purchase, take, deal in or become interested in any stock, bond, debenture, share or other security of any municipality in Ontario or of any railway holding municipal securities, railway stock, etc.;

or public utility company or any company which in any way controls a railway or public utility;

having
interest in
contract;

(b) become concerned or interested in any contract, undertaking or work with or for any municipality, railway or public utility company;

having
interest in
appliances.

(c) have any interest in any device, appliance, machine, patented process or article or in any part thereof which may be required or used for the purpose of the business of any municipality, railway or public utility company. R.S.O. 1937, c. 60, s. 19.

Duty to
dispose of
interest.

18. If a member or officer of the Board, by will, succession, or otherwise for his own benefit, directly or indirectly, becomes the owner, holder or otherwise vested with or interested in any stock, bond, debenture, share, security, contract, undertaking, work, device, appliance, machine, patented process or article mentioned in section 17, he shall within one year thereafter absolutely sell and dispose of the same or his interest therein. R.S.O. 1937, c. 60, s. 20.

Members of
Board not to
be officers or
directors of
certain
companies.

19. No member or officer of the Board shall act as director or officer of any railway or public utility company or of any company which has power to invest any portion of its funds in the securities of a municipality, railway or public utility company. R.S.O. 1937, c. 60, s. 21.

Securing
assistance
for purpose
of inquiry.

20. For the purpose of any inquiry or examination conducted by it or in the performance of any of the other duties assigned to it by this or any other Act or by the Lieutenant-Governor in Council, the Board may, with the consent of the Minister in charge of any department of the Government, avail itself of the services of any officer or employee of such department, and for any such purpose it may, with the approval of the Lieutenant-Governor in Council, avail itself of the services of any member, officer or employee of any board or commission established by Act of the Legislature. R.S.O. 1937, c. 60, s. 22.

Offices at
Toronto.

21. The Lieutenant-Governor in Council shall provide within the City of Toronto a suitable place in which the sittings of the Board may be held and also suitable offices for the members, secretary, staff and other employees and all necessary furnishings, stationery and equipment for the establishment, conduct and maintenance of the same and for the performance of the duties of the Board. R.S.O. 1937, c. 60, s. 23.

Sittings of
Board.

22. The Board shall sit at such times and places within the province as the chairman may from time to time desig-

nate and shall conduct its proceedings in such manner as may seem to it most convenient for the speedy and effectual dispatch of its duties. R.S.O. 1937, c. 60, s. 24.

23. The sittings of the Board may be either private or ^{Private or public.} open to the public, but any complaint made to the Board shall, on the application of any party thereto, be publicly heard. R.S.O. 1937, c. 60, s. 25.

24. Where sittings of the Board or any member thereof ^{Use of court house.} are appointed to be held in any municipality in which a court house is situate, the Board or members shall have in all respects the same authority and right as a judge of the Supreme Court with respect to the use of the court house and any part thereof, and of other buildings and apartments set aside in the municipality for the administration of justice. R.S.O. 1937, c. 60, s. 26.

25. Where sittings of the Board or any member thereof ^{Use of town hall.} are appointed to be held in any municipality in which there is a hall belonging to the corporation thereof, but no court house, the corporation shall, upon request, allow such sittings to be held in such hall and shall make all arrangements necessary and suitable for such purpose. R.S.O. 1937, c. 60, s. 27.

26. The Lieutenant-Governor in Council may from time ^{Experts.} to time, upon the recommendation of the Board, appoint one or more experts or persons having technical or special knowledge of matters or subjects within the jurisdiction of the Board or in question in respect of any particular matter or subject before the Board to assist the Board in an advisory or other capacity. R.S.O. 1937, c. 60, s. 28.

27.—(1) There shall be a secretary of the Board who shall be ^{Secretary.} appointed by the Lieutenant-Governor in Council and shall hold office during pleasure. R.S.O. 1937, c. 60, s. 29.

(2) Where the office of the secretary is vacant, or in his ^{Acting secretary.} absence or inability to act, the Board may appoint a secretary *pro tempore*, who shall act in the place of the secretary, or a member of the Board may act as secretary. R.S.O. 1937, c. 60, s. 32.

28. It shall be the duty of the secretary,

- (a) to keep a record of all applications to and proceedings ^{Duties of secretary; keep minutes;} before the Board or any member;

custody of
records;

- (b) to have the custody and care of all records and documents of or pertaining to the business of or proceedings before the Board or any member, or filed in his office;

authenticat-
tion of
regulations,
orders, etc.;

- (c) to have every order, rule, regulation and certificate drawn pursuant to the directions of the Board and according to the provisions of any statute affecting the same properly authenticated and issued, filed and otherwise dealt with as may be requisite;

record
books;

- (d) to keep proper books of record in which he shall cause to be entered a true copy of every order, rule and regulation made by the Board and of every other document which the Board may require to be entered therein, and such entry shall constitute and be the original record of every such order, rule, regulation and document;

other
matters;

- (e) to carry out such other functions and duties as may by statute, the Lieutenant-Governor in Council or the Board be assigned to him or his office;

obey
directions.

- (f) to obey all rules, regulations and directions made or given by the Board touching his duties or his office. R.S.O. 1937, c. 60, s. 30; 1950, c. 49, s. 5.

Certified
copies of
regulations
or orders.

29. Upon application of any person and on payment of such fees as the Board may prescribe, the secretary shall deliver to such person a certified copy of any order, rule, regulation, certificate or other document made, given or issued by the Board. R.S.O. 1937, c. 60, s. 31.

Staff of
Board,
appoint-
ment and
dismissal.

30. The staff of the Board shall consist of a secretary and of such other officers, clerks, stenographers and employees as the Board, with the approval of the Lieutenant-Governor in Council, from time to time appoints, and the Board, with the like approval, may at pleasure dismiss any of them. R.S.O. 1937, c. 60, s. 33.

Salaries
of Board and
secretary.

31. The chairman and other members of the Board and the secretary shall be paid such salaries as shall from time to time be fixed by the Lieutenant-Governor in Council. R.S.O. 1937, c. 60, s. 34.

Salaries of
staff.

32. The officers, clerks, stenographers and employees of the Board shall be paid such salaries or remuneration as, upon the recommendation of the Board, the Lieutenant-Governor in Council may approve. R.S.O. 1937, c. 60, s. 35.

33. Whenever the Board by virtue of any power vested in it appoints or directs any person other than a member of the staff of the Board to perform any service required by this or any other Act, such person shall be paid such sum for services and expenses as, upon the recommendation of the Board, the Lieutenant-Governor in Council may approve. R.S.O. 1937, c. 60, s. 36. Remuneration of appointee.

34. The salaries of the members of the Board and the secretary and the salaries or remuneration of the staff of the Board and all expenses of the Board and of supplying or maintaining offices and furnishings, stationery, supplies and equipment for the Board, together with expenses incurred by members of the Board or the secretary in the performance of their duties including reasonable travelling and subsistence expenses of the members and secretary and of such of its staff as may be required or authorized by the Board necessarily incurred in attending to the duties of their office, shall be paid monthly out of the Consolidated Revenue Fund. R.S.O. 1937, c. 60, s. 37. Salaries.

35. Neither the members of the Board nor its secretary nor any of its staff shall be required to give testimony in any civil suit with regard to information obtained by him in the discharge of his official duty. R.S.O. 1937, c. 60, s. 38. Protection from being called as witnesses.

36. Neither the members of the Board nor its secretary nor any of its staff shall be personally liable for anything done by it or by him under the authority of this or any other Act. R.S.O. 1937, c. 60, s. 39. Protection from personal liability.

PART III

GENERAL JURISDICTION AND POWERS

37. The Board shall for all purposes of this Act have all the powers of a court of record and shall have an official seal which shall be judicially noticed. R.S.O. 1937, c. 60, s. 40. Board to have powers of court of record and a seal.

38. The Board shall as to all matters within its jurisdiction under this Act have authority to hear and determine all questions of law or of fact. R.S.O. 1937, c. 60, s. 41. Power to determine law and fact.

39. The Board shall have exclusive jurisdiction in all cases and in respect of all matters in which jurisdiction is conferred on it by this Act or by any other general or special Act. R.S.O. 1937, c. 60, s. 42. Jurisdiction exclusive.

General
jurisdiction
and powers.

40.—(1) The Board shall have jurisdiction and power,

- (a) to hear and determine all applications made, proceedings instituted and matters brought before it under this Act or any other general or special Act and for such purpose to make such orders, rules and regulations, give such directions, issue such certificates and otherwise do and perform all such acts, matters, deeds and things, as may be necessary or incidental to the exercise of the powers conferred upon the Board under such Act;
- (b) to perform such other functions and duties as are now or hereafter conferred upon or assigned to the Board by statute or under statutory authority;
- (c) to order and require or forbid, forthwith or within any specified time and in any manner prescribed by the Board, the doing of any act, matter or thing or the omission or abstention from doing or continuance of any act, matter or thing, which any person, firm, company, corporation or municipality is or may be required to do or omit to be done or to abstain from doing or continuing under this or any other general or special Act, or under any order of the Board or any regulation, rule, by-law or direction made or given under any such Act or order or under any agreement entered into by such person, firm, company, corporation or municipality;
- (d) to make, give or issue or refuse to make, give or issue any order, directions, regulation, rule, permission, approval, certificate or direction, which it has power to make, give or issue. R.S.O. 1937, c. 60, s. 43.

Compensation for
lands ex-
propriated,
election
as to who
shall
determine.

(2) Notwithstanding anything in any general or special Act, where land or other property has been expropriated under the authority of any general or special Act all claims for compensation or damages by reason of such expropriation shall, where the expropriating body so elects by notice in writing, be heard and determined by the Board, and where such election is made sections 28, 30, 31, 32 and 36 of *The Public Works Act* shall, except as otherwise provided in the Act authorizing the expropriation, *mutatis mutandis* apply. 1942, c. 34, s. 41.

Rev. Stat.,
c. 323.

Powers of
Supreme
Court
exercisable
by Board.

41. The Board for the due exercise of its jurisdiction and powers and otherwise for carrying into effect the provisions of this or any other general or special Act, shall have all such powers, rights and privileges as are vested in the Supreme Court with respect to the amendment of proceedings, addition

or substitution of parties, attendance and examination of witnesses, production and inspection of documents, entry on and inspection of property, enforcement of its orders and all other matters necessary or proper therefor. R.S.O. 1937, c. 60, s. 44.

42. Where by the provisions of any letters patent or supplementary letters patent of any corporation heretofore or hereafter issued under *The Companies Act* or any other general or special Act, any jurisdiction is conferred upon the Board, or it is provided that any matter in any way may be referred to the Board, it shall with respect thereto have power to inquire into, hear and determine all matters and things necessary or incidental to the due exercise of such jurisdiction and reference and to make and give orders, directions, regulations, rules, permissions, approvals, sanctions and certificates as to the Board may seem proper. R.S.O. 1937, c. 60, s. 45.

Jurisdiction
under
letters
patent.
Rev. Stat.,
c. 59.

43. Where by this or any other general or special Act the permission, approval or sanction of the Board is necessary to the exercise of any power or the doing, or the abstention from doing or continuing to do any act, matter, deed or thing, such power shall not be exercised or act, matter, deed or thing be done or abstained from being done or be continued until such permission, approval or sanction has been obtained. R.S.O. 1937, c. 60, s. 46.

Where
Board's
approval
not given.

44.—(1) The Board may, of its own motion, and shall, upon the request of the Lieutenant-Governor in Council, inquire into, hear and determine any matter or thing which it may inquire into, hear and determine upon application or complaint, and with respect thereto shall have and may exercise the same powers as, upon any application or complaint, are vested in it.

When
Board
may act.

(2) Any power or authority vested in the Board under this or any other general or special Act may, though not so expressed, be exercised from time to time, or at any time, as the occasion may require. R.S.O. 1937, c. 60, s. 47.

Power to act
from time
to time.

45.—(1) The Lieutenant-Governor in Council may from time to time, upon the request of the Board, or of his own motion, appoint counsel to appear before the Board and conduct an inquiry or hearing or to represent the Board upon the argument of any appeal to the Court of Appeal or to any other court in an appeal from the Court of Appeal, in cases where any such appeal may lie.

Appoint-
ment of
counsel.

Costs.

(2) The Board may direct that the costs of such counsel shall be paid by any party to the application, proceeding or matter, or by the Treasurer of Ontario. R.S.O. 1937, c. 60, s. 48.

Power to rehear, review, etc.

46. The Board may rehear any application before deciding it or may review, rescind, change, alter or vary any decision, approval or order made by it. R.S.O. 1937, c. 60, s. 49.

Board to inquire and report on certain matters at request.

47. The Board shall, when required so to do by the Lieutenant-Governor in Council, the Assembly or any committee thereof, make or cause to be made under its supervision an inquiry into any facts which the Lieutenant-Governor in Council, the Assembly or any such committee may desire to ascertain before passing upon the propriety of any proposed change in the general law, or upon any proposed Bill relating to a municipality or to a railway or to any corporation or person operating or proposing to operate a public utility, and upon the conclusion of such inquiry the Board shall report its opinion thereon. R.S.O. 1937, c. 60, s. 50.

Reference by Lieutenant-Governor in Council for report.

48. The Lieutenant-Governor in Council may at any time refer to the Board, for a report or other action, any question, matter or thing arising, or required to be done in respect of a municipality, railway or public utility subject to the jurisdiction of the Board, under any general or special Act, and the Board shall without unnecessary delay comply with the Order in Council. R.S.O. 1937, c. 60, s. 51.

Board may order inquiries.

49.—(1) The Board may appoint or direct any person to make an inquiry and report upon any application, complaint or dispute before the Board, or upon any matter or thing over which the Board has jurisdiction.

Costs.

(2) The Board may order by whom and in what proportion the costs and expenses incurred in making such inquiry and report shall be paid, and may fix the amount of such costs and expenses. R.S.O. 1937, c. 60, s. 52.

General powers.

50. The Board may order and require any person or company, corporation or municipality to do forthwith or within or at any specified time, and in any manner prescribed by the Board, so far as is not inconsistent with this Act, any act, matter or thing which such person, company, corporation or municipality is or may be required to do under this Act, or under any other general or special Act, or under any regulation, order, direction, agreement or by-law, and may forbid the doing or continuing of any act, matter or thing which is in contravention of any such Act or of any such regulation, order, direction, agreement or by-law. R.S.O. 1937, c. 60, s. 53.

51. The Board may require any person, company, corporation or municipality, subject to its jurisdiction, to adopt such means and appliances and to take and use such precautions as the Board may deem necessary or expedient for the safety of life and property. R.S.O. 1937, c. 60, s. 54.

52.—(1) When the Board, in the exercise of any power vested in it, by any order directs any structure, appliances, equipment, works, renewals or repairs to be provided, constructed, reconstructed, altered, installed, operated, used or maintained, it may order by what person, company, corporation or municipality interested or affected by such order, as the case may be, and when or within what time, and upon what terms and conditions as to the payment of compensation or otherwise, and under what supervision the same shall be provided, constructed, reconstructed, altered, installed, operated, used or maintained.

(2) The Board may order by whom, in what proportion and when, the costs and expenses of providing, constructing, reconstructing, altering, installing and executing such structures, equipment, works, renewals or repairs, or of the supervision, if any, or of the continued operation, use or maintenance of the same, or of otherwise complying with such order, shall be paid. R.S.O. 1937, c. 60, s. 55.

53. If default is made by a person, company, corporation or municipality in the doing of any act, matter or thing, which the Board has authority, under this or any other general or special Act, to direct and has directed to be done, the Board may authorize such person as it may see fit to do the act, matter or thing, and in every such case the person so authorized may do such act, matter or thing, and the expense incurred in the doing of the same may be recovered from the person, company, corporation or municipality in default as money paid for and at his or its request, and the certificate of the Board of the amount so expended shall be conclusive evidence thereof. R.S.O. 1937, c. 60, s. 56.

54. The Board shall also have power to enforce its orders and directions respecting any public utility in the manner and by the means provided in section 261 of *The Railways Act*. R.S.O. 1937, c. 60, s. 57.

55. The Board, inspecting engineer, or person appointed under this Act to make any inquiry or report may,

- (a) enter upon and inspect any place, building or works, being the property or under the control of any

- company, the entry or inspection of which appears to it or him requisite;
- inspection; (b) inspect any works, structure, rolling stock or property of the company;
- attendance of witnesses; (c) require the attendance of all such persons as it or he thinks fit to summon, and examine and require answers or returns to such inquiries as it or he thinks fit to make;
- production of documents, etc.; (d) require the production of all books, papers, plans, specifications, drawings and documents, relating to any matter before it or him;
- oaths; (e) administer oaths,
- summoning witnesses and enforcing attendance. and shall have the like power to summon witnesses and enforce their attendance, and compel them to give evidence and to produce books, papers or things which they are required to produce, as is vested in any court in civil cases. R.S.O. 1937, c. 60, s. 58.

PART IV

GENERAL MUNICIPAL JURISDICTION

- General municipal jurisdiction of the Board, **56.**—(1) The Board shall have jurisdiction and power in relation to municipal affairs,
- approving borrowings; (a) to approve the exercise in whole or in part of any of the powers by a municipality under any general or special Act which may or will involve or require the borrowing of money by the issue of debentures, or the incurring of any debt or the issuing of any debentures, which approval the municipality voluntarily applies for or is required by law to obtain;
- approving by-laws; (b) to approve any by-law or proposed by-law of a municipality, which approval the municipality voluntarily applies for or is required by law to obtain; R.S.O. 1937, c. 60, s. 59 (1), cls. (b, c).
- floating debt; (c) to authorize the issue by a municipality, without the assent of the electors, of debentures to pay any floating indebtedness which it may have incurred, upon such terms, in such manner and at such times as the Board may approve, or to direct that such floating indebtedness be paid in such other manner and within such time as the Board may require; 1939, c. 47, s. 26 (1), *part*.
- callable debentures; (d) to authorize the issue by a municipality, without the assent of the electors, of debentures to retire debentures.

tures which are redeemable before maturity, and the raising of the sum required for payment of such new debentures in the same manner as the sum required for payment of the retired debentures; 1939, c. 47, s. 26 (1), *part*; 1941, c. 40, s. 1 (1).

- (e) to certify to the validity of debentures issued under the authority of any by-law of a municipality which the Board has approved; R.S.O. 1937, c. 60, s. 59 (1), cl. (e). certifying validity of debentures;
- (f) to direct that before any approval is given by the Board to the exercise of any powers by a municipality or to any by-law passed by it, or before any authorization is given by the Board to the issue by a municipality of debentures to pay any floating indebtedness, the assent of the electors thereof or of those thereof who are qualified to vote on money by-laws first be obtained, notwithstanding such assent is not otherwise requisite; R.S.O. 1937, c. 60, s. 59 (1), cl. (f); 1939, c. 47, s. 26 (2). assent of electors to by-laws;
- (g) to supervise, where deemed necessary, the expenditure of any moneys borrowed by a municipality with the approval of the Board; supervising certain expenditures;
- (h) to require and obtain from any municipality at any time and for any definite period statements in detail of any of its affairs, financial and otherwise; detailed statement of affairs;
- (i) to inquire at any time into any or all of the affairs, financial and otherwise, of a municipality and hold such hearings and make such investigations in respect thereof as may appear necessary or expedient to be made in the interests of the municipality, its ratepayers, inhabitants and creditors and particularly to make and hold such inquiries, hearings and investigations for the purpose of avoiding any default or recurrence of default by any municipality in meeting its obligations; R.S.O. 1937, c. 60, s. 59 (1), cls. (g-i); power of investigation;
- (j) to hear and determine the application of any municipality to confirm, vary or fix the rates charged or to be charged in connection with water supplied thereto by any other municipality; 1940, c. 20, s. 1. supply of water;
- (k) generally, to exercise such jurisdiction and powers as by or under the authority of this Act or *The Municipal Act* or any other general or special Act are conferred upon the Board. R.S.O. 1937, c. 60, s. 59 (1), cl. (j). general. Rev. Stat., c. 243.

Conflict.

(2) Clauses *c* and *d* of subsection 1 shall have effect notwithstanding any general or special Act. 1941, c. 40, s. 1 (2).

Voluntary application to Board for its approval of certain matters.

57. Although not required by law to do so, any municipality may voluntarily apply to the Board for its approval of,

- (a) the exercise by the municipality of any of its powers which may or will involve or require the borrowing of money by the issue of debentures;
- (b) the incurring of any debt;
- (c) the issuing of its debentures;
- (d) any by-laws passed or proposed to be passed for any such purpose. R.S.O. 1937, c. 60, s. 60.

Application to Board for approval of by-law authorizing borrowing.

58. Any person the holder of or otherwise entitled to receive any debenture of a municipality or the proceeds of sale thereof or to whom a debt has been incurred or from whom money has been borrowed under the authority of any by-law of a municipality may apply to the Board for approval of the by-law, and the Board may approve the same. R.S.O. 1937, c. 60, s. 61.

Approval to be withheld where litigation pending.

59. The Board shall not grant or issue any approval or certificate under this or any other general or special Act in respect of any municipal affair or matter, while the same or the validity thereof is called in question in any pending action or proceeding or by which it is sought to quash any by-law of a municipality relating thereto. R.S.O. 1937, c. 60, s. 62.

Time for certifying validity of debentures.

60.—(1) The Board shall not certify the validity of any debenture issued under any by-law of a municipality until 30 days after the final passing of the by-law, unless such notice, if any, as the Board may direct has been published or given of the application for such certification. 1938, c. 37, s. 18 (1).

Exception.

(2) This section shall not apply to any debenture authorized under clause *d* of subsection 1 of section 56. 1941, c. 40, s. 2.

Validation of by-laws and debentures.

61.—(1) In any case where either prior or subsequent to the issue and sale of any debentures issued or to be issued by a municipality, application is made to the Board for its approval of any by-law authorizing the issue of such debentures, and of the debentures, the Board may approve the by-law and certify the validity of the debentures, notwithstanding any illegality, invalidity or irregularity in the by-law or debentures or in any of the proceedings relating or

incidental thereto occurring, had or taken prior or subsequent to the final passing of the by-law or issue of the debentures. R.S.O. 1937, c. 60, s. 64 (1).

(2) The Board shall not approve any by-law of a municipality or certify the validity of any debenture issued thereunder if such by-law has been set aside, quashed or declared to be invalid by any court. R.S.O. 1937, c. 60, s. 64 (3). No approval if by-law quashed, etc.

62.—(1) Every debenture the validity of which is certified by the Board shall bear the seal and certificate of the Board establishing that the by-law under the authority of which the debenture is issued has been approved by the Board and that the debenture is issued in conformity therewith. Debentures to be certified.

(2) Notwithstanding subsection 2 of section 11, the certificate may be signed by any member of the Board or by a person specially authorized by the chairman. 1950, c. 49, s. 6. Signature on certificate.

63. The certificate of the Board to the validity of any debenture of a municipality shall be in the following form: Form of certificate.

THE ONTARIO MUNICIPAL BOARD

In pursuance of *The Ontario Municipal Board Act*, the Board certifies that By-law No. of the corporation of the of, passed on the day of, 19...., has been approved by the Board, and that the within debenture, issued under the authority of such by-law and in conformity therewith, is valid and binding upon the said corporation and its validity may not be contested or questioned for any cause whatsoever.

Dated this day of, 19.....

(SEAL)

.....
for the Board.

R.S.O. 1937, c. 60, s. 66.

64.—(1) Notwithstanding the provisions of any Act, every by-law of a municipality approved by the Board and every debenture issued thereunder bearing the seal and certificate of the Board shall for all purposes be valid and binding upon the corporation of the municipality and the ratepayers thereof and upon the property liable for any rate imposed under the by-law, and the validity of the by-law and every such debenture shall not be contested or questioned in any manner. 1940, c. 20, s. 3. Validity of certified debentures.

(2) Where the Board is satisfied that any by-law or other proceeding of a municipality is not entirely beyond its jurisdiction and powers or void *ab initio*, and the validity thereof has not been questioned in any court in any litigation which is pending or the by-law has not been set aside or quashed or Board may approve by-law.

the proceeding declared to be invalid by any court, the Board may, notwithstanding any invalidity in the by-law or proceeding, approve the same, and in such case the provisions of subsection 1 shall apply to the by-law and to every debenture issued thereunder bearing the seal and certificate of the Board. R.S.O. 1937, c. 60, s. 67 (2).

Scope of
Board
inquiry.

65. The Board, upon any application of a municipality for approval of the exercise by a municipality of any of its powers, or of the incurring of any debt, or of the issue of any debentures, or of any by-law, shall, before approving the same, make such inquiry into the nature of the power sought to be exercised or undertaking which is proposed to be or has been proceeded with, the necessity or expediency of the same, the financial position and obligations of the municipality, the burden of taxation upon the ratepayers and into all other relative matters, as in the opinion of the Board may appear to be necessary or expedient. R.S.O. 1937, c. 60, s. 68.

When
electors'
assent may
be dispensed
with.

66.—(1) Where under any general or special Act it is requisite that the assent of the electors of a municipality or of those qualified to vote on money by-laws first be obtained to the exercise by a municipality of any of its powers or the incurring of any debt, issue of any debentures or passing of any by-law the Board shall not approve the exercise of such power, incurring of debt, issue of debentures or the by-law until such assent has been obtained, unless the Board after due inquiry is satisfied that such assent may under all the circumstances properly be dispensed with, and the Board may, in any such case by its order, declare and direct that the assent of the electors or the qualified electors shall not be requisite to be obtained notwithstanding the provisions of such general or special Act. R.S.O. 1937, c. 60, s. 69 (1); 1947, c. 73, s. 2.

Public
hearing.

(2) The Board before making any order under subsection 1 shall hold a public hearing after such notice thereof has been given as the Board may direct, for the purpose of inquiring into the merits of the matter and of hearing any objections which any person may desire to bring to the attention of the Board.

Conditions
in dispensing
with vote.

(3) The Board in making any order under subsection 1 dispensing with the necessity for obtaining the assent of the electors or qualified electors may impose such terms, conditions and restrictions not only in respect of the matter in which such order is made, but as to any further or subsequent exercise of any of the powers of the municipality or incurring of any other debt or issue of any other debentures or passing of any other by-law by such municipality as to the Board may seem requisite or expedient. R.S.O. 1937, c. 60, s. 69, (2, 3).

67.—(1) Notwithstanding the provisions of any general or special Act, a municipality shall not, Where approval of Board required for undertaking, etc.

(a) authorize; or

(b) exercise any of its powers to proceed with; or

(c) provide any moneys for,

any undertaking, work, project, scheme, act, matter or thing, the cost or any portion of the cost of which is to be,

(d) raised in a subsequent year or years; or

(e) provided by the issue of debentures,

until the approval of the Board has first been obtained. 1946, c. 66, s. 1.

(2) This section shall apply to the guarantee by a municipality of the debentures, bonds or other securities of any other municipality or of any other person or corporation whatsoever, or of payment of the whole or any part of the sinking fund, or principal of or interest on any such debentures, bonds or other securities, and no guarantee thereof shall be made or entered into, or by-law in that behalf be passed, by any municipality under the provisions of any general or special Act, or of any agreement entered into pursuant thereto, or by-law passed thereunder, until the approval of the Board has first been obtained. R.S.O. 1937, c. 60, s. 70 (2). Application of section to municipal guarantees.

(3) Notwithstanding the provisions of section 1, the word "municipality" in this section and in section 68 includes a public school board in an unorganized township or in unsurveyed territory, and includes only a local board that may apply to the council that moneys necessary for any purpose mentioned in this section be provided by the issue of debentures of the corporation of the municipality. 1940, c. 20, s. 4. Interpretation of "municipality" in ss. 67 and 68.

68. No by-law shall be passed by a municipality for any of the purposes mentioned in section 67 until the approval of the Board has first been obtained. R.S.O. 1937, c. 60, s. 71. Approval of by-laws.

69. Upon an application being made to the Board for the approval required by section 67, the Board shall proceed to deal with the application in the manner provided by and shall have regard to the matters mentioned in section 65, and may hold such public hearings as to the Board may appear necessary. R.S.O. 1937, c. 60, s. 72. Inquiry by the Board.

70. The Board as a condition of giving its approval as required by section 67 may by its order impose such restrictions, limitations and conditions upon the municipality with Board may impose conditions on giving approval.

respect to the matter before the Board or with respect to the current annual or future annual expenditures of the municipality for any purpose or with respect to further issues of debentures by the municipality, and otherwise with respect to the conduct and administration of the affairs of the municipality, as to the Board may appear necessary or expedient. R.S.O. 1937, c. 60, s. 73.

Board not
required to
approve.

71. The Board shall not be required to give its approval on any application made to it under section 67, and shall not give such approval unless satisfied that the same is justified under all circumstances. R.S.O. 1937, c. 60, s. 74.

Municipality
may proceed
upon
approval.

72. When the Board has given its approval as required by section 67, the municipality may thereafter proceed in the manner and to the extent provided for by or consequent upon such approval, and for such purposes may exercise all its powers and do all things necessary or incidental thereto, and may pass all requisite by-laws, including debenture by-laws. R.S.O. 1937, c. 60, s. 75.

PART V

RAILWAY AND UTILITIES JURISDICTION

Jurisdiction
of Board,

railway
and utility
matters;

complaints
of breach of
railway or
utility
statutes,
orders,
agreements,
etc.;

railway
and public
utility rates
and tolls.

73. The Board shall have jurisdiction and power,

- (a) to inquire into, hear and determine any applications made, proceedings instituted and matters brought before it under the provisions of any general or special Act relating to railways or public utilities or any of them where by such Act any jurisdiction or power is for such purpose conferred on the Board;
- (b) to hear and determine any application with respect to any railway or public utility, its construction, maintenance or operation by reason of the contravening or failure to comply on the part of any person, firm, company, corporation or municipality of or with the requirements of this or any other general or special Act, or of any regulation, rule, by-law or order made thereunder, or of any agreement entered into in relation to such railway or public utility, its construction, maintenance or operation;
- (c) to hear and determine any application with respect to any tolls charged by any person, firm, company, corporation or municipality operating a railway or public utility in excess of those approved or prescribed by lawful authority, or which are otherwise unlawful, unfair or unjust. R.S.O. 1937, c. 60, s. 76.

74. The fact that a manager or other official or the liquidator or receiver of a railway or public utility is managing or operating or liquidating it under the authority of any court shall not be a bar to the exercise by the Board of any jurisdiction or power conferred by this or any other general or special Act, and every such manager, official, liquidator or receiver shall be bound to manage, operate or liquidate such railway or public utility in accordance with this Act and under the orders and directions of the Board, whether general or referring particularly to such railway or public utility, and he and every person acting under him shall obey all orders and directions of the Board with respect to such railway or public utility and be subject to have them enforced against him by the Board, notwithstanding his authority or any order of the court under which he is appointed or acts. R.S.O. 1937, c. 60, s. 77.

Jurisdiction over receivers, liquidators, etc., of railway or public utility.

75.—(1) Wherever,

Powers, etc., transferred to Board.

- (a) any power or authority is given to or duty imposed upon the Railway Committee of the Executive Council of Ontario by any Act or document;
- (b) by any Act of this Legislature the location of any line of railway or the route and course thereof, or the maps, plans and specifications, or any part of the equipment are subject to the approval of the Lieutenant-Governor in Council or of any of his Ministers,

such power or authority may be exercised and such duty shall be performed and such approval may be given by the Board.

(2) Whenever in any Act it is provided that any railway company shall, during construction of any line of railway, furnish such information as to the location and plans of passenger or freight stations as may from time to time be required by the Lieutenant-Governor or any of his Ministers, or that such company shall comply with any directions that may be given for the erection of stations, or the number of them, such information shall be furnished to the Board and its directions shall be complied with by the company. R.S.O. 1937, c. 60, s. 78.

Furnishing information.

76. The decision of the Board as to whether any person, firm, company, corporation or municipality is or is not a party interested within the meaning of any of the provisions of this Part shall be binding and conclusive upon such persons, firms, companies, corporations or municipalities. R.S.O. 1937, c. 60, s. 79.

Who is a "party interested".

Super-
intending
accounts of
railways
and public
utilities
operated
by muni-
cipalities.

77.—(1) The Board shall superintend the system of book-keeping and keeping accounts of the assets, liabilities, revenue and expenditure of all railways and public utilities which are operated by or under the control of a municipality or a local board, and may require from it such returns and statements as to the Board may seem proper, and may extract from such returns and statements such information as, in the opinion of the Board, may be useful for publication, and may embody such portions of such returns and statements in the annual report of the Board as to it may seem proper.

Inquiry
and report
as to rates
charged by
public
utilities.

(2) The Board may from time to time inquire and report as to whether such railway or public utility is operated in such a way that the rates charged in respect thereof are sufficient to pay the debenture debt and interest created in respect thereof, and the cost of operation and maintenance, or whether greater rates are charged than are sufficient for such purposes.

Exception.

(3) This section shall not apply to a public utility for the development or distribution of electrical power or energy obtained directly or indirectly from The Hydro-Electric Power Commission of Ontario. R.S.O. 1937, c. 60, s. 80.

PART VI

PRACTICE AND PROCEDURE

NOTICES AND EVIDENCE

Notice,
requisites of.

78. Any notice required or authorized to be given in writing,

- (a) by the Board, may be signed by the chairman, a vice-chairman, or the secretary;
- (b) by the inspecting engineer, or other officer or person appointed by the Board, may be signed by such inspecting engineer, officer or other person, as the case may be;
- (c) by any company or corporation, may be signed by the president or secretary, or by its duly authorized agent or solicitor; and
- (d) by any person, may be signed by such person or his duly authorized agent or solicitor. R.S.O. 1937, c. 60, s. 83; 1950, c. 49, s. 7.

Notices,
how served,

79.—(1) Any notice required to be given to a company, municipality, corporation, co-partnership, firm or individual, shall be deemed to be sufficiently given by delivering the

notice, or a copy thereof, within the time, if any, limited therefor,

- (a) in the case of a railway company, to the president, ^{railway company;} vice-president, managing director, secretary or superintendent of the company, or to some adult person in the employ of the company at the head or any principal office of the company;
- (b) in the case of a municipality, to the head of the ^{muni-} municipality, or to the clerk;
- (c) in the case of any other company or corporation, to ^{other} the president, vice-president, manager or secretary, ^{companies;} or to some adult person in its employ at its head office;
- (d) in the case of a firm or co-partnership, to any member ^{co-partner-} thereof, or, at the last known place of abode of any ^{ship or} such member, to any adult member of his household, ^{firm;} or at the office or place of business of the firm to a clerk employed therein; and
- (e) in the case of an individual, to him, or, at his last ^{individuals.} known place of abode, to any adult member of his household, or, at his office or place of business, to a clerk in his employ.

(2) If, in any case within the jurisdiction of the Board, ^{Service by} it is made to appear to the satisfaction of the Board that ^{publication.} service of any such notice cannot conveniently be made in the manner provided in subsection 1, the Board may order and allow such service to be made by the publication of the notice for any period not less than three weeks in *The Ontario Gazette*, and also, if required, in any other newspaper, and such publication in each case shall be deemed to be equivalent to service in the manner provided in subsection 1.

(3) Any regulation, order, direction, decision, report or ^{Service} other document may, unless in any case otherwise provided, ^{of other} be served in like manner as notice may be given under this ^{documents.} section. R.S.O. 1937, c. 60, s. 84.

80. Every company, municipality or corporation shall, as ^{Duty of} soon as possible after the receipt by it, or service upon it, of ^{company on} any regulation, order, direction, decision, notice, report or ^{receipt of} other document of the Board, or of the inspecting engineer, ^{notice or} give cognizance thereof to each of its officers and servants ^{order.} performing duties which are or may be affected thereby, by delivering a copy to him or by posting up a copy thereof in some place where his work or his duties, or some of them, are to be performed. R.S.O. 1937, c. 60, s. 85.

Duty of
sheriffs, etc.

81. Sheriffs, deputy sheriffs, constables and other peace officers shall aid, assist and obey the Board in the exercise of the jurisdiction conferred by this Act whenever required so to do, and shall, upon the certificate of the secretary, be paid by the county interested the like fees as for similar services at the sittings of the Supreme Court for the trial of actions, and such fees shall be charged as expenses of the administration of justice. R.S.O. 1937, c. 60, s. 86.

Effect of
documents
issued by
company.

82. Every written or printed document purporting to have been issued or authorized by a company or any officer, agent or employee of a company, or any other person or company for or on its behalf, shall, as against the company, be received as *prima facie* evidence of the issue of the document by the company, and of the contents thereof, without any further proof than the mere production of the document. R.S.O. 1937, c. 60, s. 87.

Evidence of
documents.

83.—(1) Every document purporting to be signed by the chairman or a vice-chairman and the secretary, or by any of them, or by an inspecting engineer, shall, without proof of the signature, be *prima facie* evidence that the document was duly signed, and shall be sufficient notice to the company and all parties interested, if served in the manner provided by section 79 for service of notice, that the document was duly signed and issued by the Board, or inspecting engineer, as the case may be. R.S.O. 1937, c. 60, s. 88 (1); 1950, c. 49, s. 8.

Evidence of
regulations,
etc.

(2) If the document purports to be a copy of any regulation, order, direction, decision or report, made or given by the Board, or inspecting engineer, it shall be *prima facie* evidence of the regulation, order, direction, decision or report, and, when served in the manner provided by section 79, shall be sufficient notice of the regulation, order, direction, decision or report from the time of such service. R.S.O. 1937, c. 60, s. 88 (2).

Certified
plan, etc.,
prima facie
evidence.

84.—(1) Any document purporting to be certified by the secretary as being a copy of any plan, profile, book of reference or other document deposited with the Board, or of any portion thereof, shall, without proof of signature of the secretary, be *prima facie* evidence of the original document, and that the same is so deposited, and is signed, certified, attested or executed by the persons by whom and in the manner in which the same purports to be signed, certified, attested or executed, as shown or appearing from the certified copy, and also, if the certificate states the time when the original was so deposited, that the same was deposited at the time so stated.

(2) A copy of any regulation, order or other document in the custody of the secretary, or of record with the Board, purporting to be certified by the secretary to be a true copy and purporting to be sealed with the seal of the Board, shall be *prima facie* evidence of the regulation, order or document, without proof of the signature of the secretary. R.S.O. 1937, c. 60, s. 89.

Certified
copies of
documents
of Board.

85. Any rule, regulation, order or decision of the Board, when published by the Board, or by leave of the Board, for three weeks in *The Ontario Gazette*, and while the same remains in force, shall have the like effect as if enacted in this Act, and all courts shall take judicial notice thereof. R.S.O. 1937, c. 60, s. 90.

Publication
of regula-
tions,
orders, etc.

86. Unless otherwise provided, 10 days notice of any application to the Board, or of any hearing by the Board, shall be sufficient, but the Board may in any case direct longer or permit shorter notice of the application. R.S.O. 1937, c. 60, s. 91.

Notice of
application.

87.—(1) When the Board is authorized to hear an application, complaint or dispute, or make any order, upon notice to the parties interested, it may, upon the ground of urgency, or for other reason appearing to the Board to be sufficient, notwithstanding any want of or insufficiency in such notice, make the like order or decision in the matter as if due notice had been given to all parties, and such order or decision shall be as valid and take effect in all respects as if made on due notice.

Procedure
in urgent
cases when
no notice
given.

(2) Any person entitled to notice and not sufficiently notified may, at any time within 10 days after becoming aware of the order or decision, or within such further time as the Board may allow, apply to the Board to vary, amend or rescind the order or decision, and the Board shall thereupon, on such notice to other parties interested as it may in its discretion think desirable, hear such application, and either amend, alter or rescind the order or decision, or dismiss the application, as may seem to it just. R.S.O. 1937, c. 60, s. 92.

When
rehearing in
such cases
may be had.

ORDERS OF COURT

88.—(1) A certified copy of any order or decision made by the Board under this Act or any general or special Act may be filed in the office of the Registrar of the Supreme Court, and shall thereupon become and be enforceable as a judgment or order of the Supreme Court to the same effect, but the order or decision may nevertheless be rescinded or varied by the Board.

Enforcement
of orders.

Board
may select
method of
enforcing
order.

(2) It shall be optional with the Board to adopt the method provided by this section for enforcing its orders or decisions or to enforce them by its own action. R.S.O. 1937, c. 60, s. 93.

TERMS OF ORDERS

Contingent
orders.

89.—(1) The Board may direct in any order that the order, or any portion or provision thereof, shall come into force at a future fixed time, or upon the happening of any contingency, event or condition specified in the order, or upon the performance, to the satisfaction of the Board or person named by it, of any terms which the Board may impose upon any party interested, and the Board may direct that the whole, or any portion of the order, shall have force for a limited time, or until the happening of any specified event.

Interim
orders.

(2) The Board may, instead of making an order final in the first instance, make an interim order and reserve further directions, either for an adjourned hearing of the matter or for further application. R.S.O. 1937, c. 60, s. 94.

May grant
partial or
other relief
than that
applied for.

90. Upon any application to the Board, the Board may make an order granting the whole, or part only, of the application, or may grant such further or other relief in addition to, or in substitution for, that applied for as to the Board may seem just and proper as fully in all respects as if the application had been for such partial, other, or further relief. R.S.O. 1937, c. 60, s. 95.

Interim
ex parte
orders.

91. The Board may, if the special circumstances of any case, in its opinion, so require, make an interim *ex parte* order authorizing, requiring or forbidding anything to be done which the Board would be empowered on application, notice and hearing to authorize, require or forbid, but no such order shall be made for any longer time than the Board may deem necessary to enable the matter to be heard and determined. R.S.O. 1937, c. 60, s. 96.

Extension
of time
specified in
order.

92. When any work, act, matter or thing is, by any regulation, order or decision of the Board, required to be done, performed or completed within a specified time the Board may, if the circumstances of the case in its opinion so require, upon notice and hearing, or in its discretion upon *ex parte* application, extend the time so specified. R.S.O. 1937, c. 60, s. 97.

GENERAL RULES

Power to
make rules.

93. The Board may make general rules regulating its practice and procedure. R.S.O. 1937, c. 60, s. 98.

OTHER PROVISIONS

94. An order of the Board need not show upon its face that any proceeding or notice was had or given, or any circumstance existed, necessary to give it jurisdiction to make the order. R.S.O. 1937, c. 60, s. 99. Presumption of jurisdiction to make order.

95.—(1) In determining any question of fact the Board shall not be concluded by the finding or judgment of any other court in any action, prosecution or proceeding involving the determination of such fact, but such finding or judgment shall, in proceedings before the Board, be *prima facie* evidence only. Effect of finding of fact in another court.

(2) Except as otherwise provided in this Act the pendency of any action, prosecution or proceeding in any other court involving questions of fact shall not deprive the Board of jurisdiction to hear and determine the same questions of fact. Jurisdiction not affected.

(3) The finding or determination of the Board upon any question of fact within its jurisdiction shall be binding and conclusive. R.S.O. 1937, c. 60, s. 100. Effect of finding of fact.

96.—(1) The Board may, at the request of the Lieutenant-Governor in Council, or of its own motion, or upon the application of any party, and upon such security being given as it directs, state a case in writing for the opinion of the Court of Appeal upon any question which, in the opinion of the Board, is a question of law. Stating case for opinion of Court of Appeal.

(2) The Court of Appeal shall hear and determine the special case and remit it to the Board with the opinion of the Court thereon. R.S.O. 1937, c. 60, s. 101. Action thereon.

97. The Lieutenant-Governor in Council may, at any time, upon petition of any party, person or company interested, all parties interested first having been heard, vary or rescind any order, decision, rule or regulation of the Board whether such order or decision is made *inter partes* or otherwise, and whether such regulation is general or limited in its scope and application, and any order which the Lieutenant-Governor in Council may make with respect thereto shall be binding upon the Board and upon all parties. R.S.O. 1937, c. 60, s. 102. Lieutenant-Governor in Council may rescind orders or regulations.

98.—(1) Subject to the provisions of Part IV, an appeal shall lie from the Board to the Court of Appeal upon a question of jurisdiction or upon any question of law, but such appeal shall not lie unless leave to appeal is obtained from the Court within one month after the making of the order or decision Appeal on questions of jurisdiction.

sought to be appealed from or within such further time as the Court, under the special circumstances of the case, shall allow after notice to the opposite party stating the grounds of appeal.

Notice
of appeal.

(2) Upon such leave being obtained the registrar shall set the appeal down for hearing at the next sittings, and the party appealing shall, within 10 days, give to the parties affected by the appeal, or the solicitors by whom such parties were represented before the Board, and to the secretary, notice in writing that the case has been so set down, and the appeal shall be heard by such Court as speedily as practicable.

Opinion
of Court.

(3) On the hearing of any appeal the Court may draw all such inferences as are not inconsistent with the facts expressly found by the Board and are necessary for determining the question of jurisdiction or law, as the case may be, and shall certify its opinion to the Board and the Board shall make an order in accordance with such opinion.

Board may
be heard by
counsel.

(4) The Board shall be entitled to be heard, by counsel or otherwise, upon the argument of any such appeal.

Rules of
court as to
costs, etc.

(5) The Supreme Court shall have power to fix the costs and fees to be taxed, allowed and paid upon such appeals, and to make rules of practice respecting appeals under this section, and until such rules are made the rules and practice applicable to appeals from a judge of the Supreme Court to the Court of Appeal shall be applicable to appeals under this Act. R.S.O. 1937, c. 60, s. 103 (1-5).

Members of
Board not
liable for
costs.

(6) Neither the Board nor any member of the Board shall in any case be liable to any costs by reason or in respect of any appeal or application under this section.

Decisions of
Board to be
final.

(7) Save as provided in this section and in section 97,

(a) every decision or order of the Board shall be final; and

(b) no order, decision or proceeding of the Board shall be questioned or reviewed, restrained or removed by prohibition, injunction, *certiorari* or any other process or proceeding in any court. R.S.O. 1937, c. 60, s. 103 (8, 9).

Costs.

99.—(1) The costs of and incidental to any proceeding before the Board, except as herein otherwise provided, shall be in the discretion of the Board, and may be fixed in any case at a sum certain or may be taxed.

Taxation.

(2) The Board may order by whom and to whom any costs are to be paid, and by whom the same are to be taxed and allowed.

(3) The Board may prescribe a scale under which such costs shall be taxed. R.S.O. 1937, c. 60, s. 104.

100. Every person summoned to attend before the Board or before any inspecting engineer, or person appointed to make inquiry and report, shall, in the discretion of the Board, receive the like fees and allowances for so doing as if summoned to attend before the Supreme Court. R.S.O. 1937, c. 60, s. 105. Witness fees.

101.—(1) The Board may charge and collect such fees as it may seem proper for all copies of documents, maps or plans, and all certificates as to the same. Fees for copies, certificates, etc.

(2) All fees charged and collected by the Board shall be paid over quarterly, accompanied by a detailed statement thereof, to the Treasurer of Ontario. R.S.O. 1937, c. 60, s. 106. Payment over to Province.

102. There shall be paid upon every application to the Board or every order thereof such fee as the Board may direct, regard being had to the time occupied by the Board and its officers and the expense occasioned to the Province in the matter, and such fee shall be paid in the first instance by the applicant and shall be a debt due by the applicant to His Majesty and a summary order may be made by the Board for payment thereof, and such summary order may be made an order of the Supreme Court. 1939, c. 47, s. 26 (3). Fees of Board.

PART VII

MISCELLANEOUS

ANNUAL REPORT OF BOARD

103.—(1) The Board shall, on or before the 31st day of March in each year, make an annual report to the Lieutenant-Governor, which shall contain, Annual report.

- (a) a record of its meetings and an abstract of its proceedings during the preceding calendar year;
- (b) a statement of the result of any examination or investigation conducted by it;
- (c) such statements, facts and explanations as will disclose the actual workings of the system of railway transportation in its bearing upon the business and prosperity of Ontario, and such suggestions as to the general railway policy of the Province, of the amendments of its laws, or the condition, affairs or conduct

of any railway or street railway as may seem to it advisable;

- (d) such tables and abstracts of all the reports of all the railway and street railway companies as it may deem expedient;
- (e) a statement in detail of its disbursements;
- (f) such other matters as appear to the Board to be of public interest in connection with the persons, companies and railways, subject to this Act; and
- (g) such matters as the Lieutenant-Governor in Council directs.

Laying
report before
Assembly.

(2) The Lieutenant-Governor shall lay the report before the Assembly forthwith if then in session, or if not then in session within 15 days after the commencement of the next session. R.S.O. 1937, c. 60, s. 108.

Publishing
information
without
leave.

104. If any officer or servant of the Board, or any person having access to or knowledge of any return made to the Board, or of any evidence taken by the Board in connection therewith, without the authority of the Board first obtained, publishes or makes known any information, having obtained the same or knowing the same to have been derived from such return or evidence, he shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$500 and shall also be liable to imprisonment for a term of not more than six months. R.S.O. 1937, c. 60, s. 109.

Powers of
Hydro-
Electric
Power Com-
mission.
Rev. Stat.,
c. 281.

105. Nothing in this Act shall confer upon the Board any jurisdiction as to matters which, under *The Power Commission Act*, are within the exclusive jurisdiction of The Hydro-Electric Power Commission of Ontario. R.S.O. 1937, c. 60, s. 110.

CHAPTER 263

The Ontario Municipal Improvement Corporation Act

1.—(1) The Ontario Municipal Improvement Corporation, constituted on behalf of His Majesty in right of Ontario as a body corporate and politic, without share capital, shall continue as such and shall have as its object the purchase from municipalities in Ontario of debentures issued by them for any of the following municipal works and undertakings:

- (a) waterworks and water supply distribution systems;
- (b) sewage works, treatment works, sewer system or sewer, as defined in section 389 of *The Municipal Act*; Rev. Stat., c. 243.
- (c) plants and works for the incineration of garbage, refuse and wastes; and
- (d) drainage works under *The Municipal Drainage Act*. Rev. Stat., c. 246. 1950, c. 50, s. 1 (1), *amended*.

(2) The Ontario Municipal Improvement Corporation, hereinafter called the Corporation, shall be composed of three members who shall hold office as members during the pleasure of the Lieutenant-Governor in Council and who shall be such officers in the public service of Ontario as the Lieutenant-Governor in Council may from time to time appoint.

(3) The three members for the time being of the Corporation shall form and be its board of directors and the Lieutenant-Governor in Council shall designate one of them as chairman and one of them as vice-chairman of the board. Board of Directors.

(4) Subject to the regulations, the affairs of the Corporation shall be under the management and control of the board of directors and in the absence of the chairman, or if at any time that office is vacant, the vice-chairman shall have all the powers and perform the duties of the chairman. Management.

(5) In the administration of the affairs of the Corporation, the board of directors shall be assisted by such officers and other employees in the public service of Ontario as the Treasurer of Ontario may assign for the purpose. 1950, c. 50, s. 1 (2-5). Administration.

Borrowing
powers;

2.—(1) To carry out the object for which it is constituted the Corporation shall have power, with the approval of the Lieutenant-Governor in Council and subject to the regulations, to raise from time to time, by way of loan, any sum or sums of money not exceeding in the aggregate \$50,000,000 outstanding at any one time, and such loans may be made in any of the following ways or partly in one and partly in any of the other or others thereof:

debentures;

(a) by the issue and sale of debentures of the Corporation issued in such form and denominations and at such rate of interest and with the principal and interest thereof payable at such periods, times and places as the Lieutenant-Governor in Council deems expedient and as the regulations may provide;

bills and
notes;

(b) by the issue and sale of treasury bills or notes of the Corporation issued in such form and denominations and at such rate of interest and with the principal and interest thereof payable at such periods, times and places as the Lieutenant-Governor in Council deems expedient and as the regulations may provide; and

temporary
loans.

(c) by temporary loans as the Lieutenant-Governor in Council deems expedient and as the regulations may provide.

Refunding
of loans,
etc.

(2) Subject to the aggregate sum of \$50,000,000 outstanding at any one time mentioned in subsection 1 not being exceeded, the Corporation shall have power, with the approval of the Lieutenant-Governor in Council and subject to the regulations, to raise from time to time, by way of loan and by any of the ways set forth in subsection 1, any sum or sums of money for any one or more of the following purposes:

(a) payment, retirement, refunding or renewal of the whole or any part of any debentures, bills or notes issued by the Corporation under clause *a* or *b* of subsection 1; and

(b) payment, retirement, refunding or renewal of the whole or any part of any temporary loan made by the Corporation under clause *c* of subsection 1. 1950, c. 50, s. 2.

Debentures
to be
redeemable
before
maturity.

3. Every debenture issued by the Corporation shall be expressed to be redeemable, at the option of the Corporation, on any date prior to maturity according to the mode, terms, periods, times and places of redemption approved by the Lieutenant-Governor in Council and as the regulations may provide. 1950, c. 50, s. 3.

4. Every debenture, bill or note issued by the Corporation shall contain a statement in the body thereof that it is issued under the authority of this Act and no debenture, bill or note purporting to be issued by the Corporation shall be valid unless such statement is so contained. 1950, c. 50, s. 4.

Debentures to state source of authorization.

5. Every advertisement for the sale by the Corporation of any of its debentures, bills or notes shall contain a statement that the issue and sale of the debentures, bills or notes are made under the authority of this Act. 1950, c. 50, s. 5.

Advertisements of sale to state source of authorization.

6. Where a debenture, bill or note of the Corporation is defaced, lost or destroyed, the board of directors may provide for its replacement on such terms as to evidence and as to indemnity as the board may require. 1950, c. 50, s. 6.

Lost debentures.

7.—(1) The Lieutenant-Governor in Council may authorize the Treasurer of Ontario to guarantee payment by the Province of any debentures, bills or notes issued by or of any temporary loan made to the Corporation under the authority of this Act.

Guarantee of payment by Province.

(2) The form of guaranty and the manner of execution shall be determined by the Lieutenant-Governor in Council.

Form of guaranty.

(3) Every guaranty given or purporting to be given under the authority of this section shall be binding upon the Province and shall not be open to question upon any ground whatsoever.

Validity of guaranty.

(4) Any debenture, bill or note issued by or temporary loan made to the Corporation, payment whereof is guaranteed by the Province under this section, shall be valid and binding upon the Corporation, its successors and assigns according to its terms, and the validity of any debenture, bill or note or temporary loan so guaranteed shall not be open to question on any ground whatsoever. 1950, c. 50, s. 7.

Guaranteed debentures, etc., to be indefeasible.

8. Notwithstanding anything in any other Act, debentures issued by the Corporation shall be at all times a lawful investment for municipal, school and trust funds. 1950, c. 50, s. 8.

Trustees, etc., investments in debentures.

9.—(1) The Corporation, with the approval of the Lieutenant-Governor in Council and subject to the regulations, may from time to time purchase from any municipality in Ontario debentures issued by the municipality for any of the purposes specified in subsection 1 of section 1.

Purchase of municipal debentures.

(2) The Corporation shall not purchase any municipal debentures under the authority of this Act until,

Approval and validation required.

(a) the Ontario Municipal Board has issued its order pursuant to section 67 of *The Ontario Municipal*

Rev. Stat., c. 262.

Board Act authorizing the municipality to proceed with the work or undertaking with respect to which the debentures are required; and

- (b) the municipality has had the debentures validated by the Ontario Municipal Board under sections 61 to 63 of *The Ontario Municipal Board Act*. 1950, c. 50, s. 9.

Municipal
debentures
to rank
pari passu.
Rev. Stat.,
c. 320.

10. Notwithstanding *The Public Utilities Act*, every debenture of a municipality purchased by the Corporation under the authority of this Act shall with respect to payment of principal and interest thereon rank *pari passu* with all other debentures of that municipality and the payment of principal and interest thereon. 1950, c. 50, s. 10.

Sale, etc.,
of municipal
debentures
purchased by
Corporation.

11. The Corporation shall have power, with the approval of the Treasurer of Ontario and subject to the regulations, to sell, hypothecate or otherwise dispose of any debentures purchased by the Corporation under the authority of this Act. 1950, c. 50, s. 11.

Audit.

12. The books and accounts of the Corporation shall be audited annually by the provincial Auditor or such other auditor as the Lieutenant-Governor in Council may designate and such auditor shall make an annual report of the audit to the Treasurer of Ontario, and the Treasurer shall table the report in the Assembly if it is in session, or if it is not, then at the next ensuing session. 1950, c. 50, s. 12.

Regulations.

13. The Lieutenant-Governor in Council may make regulations governing,

- (a) the management, control and administration of the affairs of the Corporation;
- (b) the issue and sale of debentures, bills or notes and the making of temporary loans by the Corporation;
- (c) the payment, retirement, refunding or renewal of debentures, bills or notes issued and loans made by the Corporation;
- (d) the redemption before maturity of any debentures issued by the Corporation;
- (e) the registration of debentures issued by the Corporation and the keeping of debenture registers in connection therewith;
- (f) the guarantee of payment by the Province of any debentures, bills or notes issued and loans made by

- the Corporation, and the form and manner of execution of any guaranty of payment;
- (g) the arrangements which the Corporation may make for purchase of debentures of municipalities and the purchase of such debentures;
 - (h) the mode in which municipalities may apply to the Corporation for its purchase of their debentures and the forms, records and proofs to be furnished with such applications;
 - (i) the conditions to be imposed in regard to the purchase by the Corporation of debentures of municipalities;
 - (j) the consideration and granting by the Corporation of applications for its purchase of debentures of municipalities;
 - (k) the sale, hypothecation or other disposition by the Corporation of any debentures of municipalities purchased by the Corporation;
 - (l) any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1950, c. 50, s. 13.

14. The Treasurer of Ontario shall administer this Act and the regulations made under this Act. 1950, c. 50, s. 14. Administra-
tion of Act.

CHAPTER 264

The Ontario Northland Transportation Commission Act

1. In this Act, "Commission" means Ontario Northland Transportation Commission. 1946, c. 67, s. 2. Interpretation.

2.—(1) The body corporate heretofore established under *The Temiskaming and Northern Ontario Railway Act* is continued and shall be known as the Ontario Northland Transportation Commission and shall be composed of one or more persons appointed by the Lieutenant-Governor in Council. R.S.O. 1937, c. 55, s. 2 (1); 1946, c. 67, s. 3. Commission, how composed. 1902, c. 9.

(2) A majority of the members of the Commission shall form a quorum. R.S.O. 1937, c. 55, s. 2 (2). Quorum.

3. Each of the commissioners shall hold office during the pleasure of the Lieutenant-Governor in Council, and the Lieutenant-Governor in Council upon the death, resignation or removal from office of any commissioner may appoint another person to fill the vacancy thereby created. R.S.O. 1937, c. 55, s. 3. Tenure of office.

4. Where the Commission is composed of more than one person, the Lieutenant-Governor in Council may from time to time designate one of the commissioners to be chairman of the Commission and one of the commissioners to be vice-chairman of the Commission. R.S.O. 1937, c. 55, s. 4. Chairman, vice-chairman.

5. The chairman and each of the commissioners shall receive his actual travelling expenses and other disbursements properly incurred in discharging his duties, and such salary or remuneration as the Lieutenant-Governor in Council may direct. R.S.O. 1937, c. 55, s. 5; 1946, c. 67, s. 4. Travelling expenses and honorarium.

6.—(1) The Lieutenant-Governor in Council may appoint an industrial commissioner who shall be paid such salary or other remuneration by the Commission as may be determined by the Lieutenant-Governor in Council, whose duty it shall be to assist in the promotion of industrial activity in that part of Ontario served by the Ontario Northland Railway. 1941, c. 61, s. 1, *part*; 1946, c. 67, s. 5. Industrial commissioner, appointment.

Industrial
commis-
sioner may
be member
of Assembly.
Rev. Stat.,
c. 202.

(2) Notwithstanding anything in *The Legislative Assembly Act*, the appointment of the industrial commissioner, if a member of the Assembly, shall not be avoided by reason of the payment to him or the acceptance by him of any salary or other remuneration under this Act, nor shall he thereby vacate or forfeit his seat or incur any of the penalties imposed by that Act for sitting and voting as a member of the Assembly. 1941, c. 61, s. 1, *part*.

Railways,
etc., vested
in Commis-
sion.

7.—(1) The railways and branch lines heretofore constructed by the Commission and all other works constructed and used in connection therewith, and any other railways, branches and other works constructed by the Commission under the authority of this Act, shall be vested in the Commission for the purposes herein set forth.

Powers of
Commission.

(2) Subject to the approval and direction of the Lieutenant-Governor in Council, the Commission may,

- (a) construct, equip, maintain and operate a line or lines of railway from the present northern terminal of the railway to some point on James Bay or the vicinity thereof;
- (b) construct, complete, equip, maintain and operate such spurs and branches from any of the lines of railway of the Commission as may be deemed necessary, not exceeding 20 miles in length in any one place, and may exercise the like powers with respect to such spurs and branches as it has exercised and may exercise with respect to any such lines;
- (c) construct, complete, equip, maintain and operate telephone and telegraph lines and with respect thereto shall have and exercise all the powers which may be exercised by a railway company under *The Railways Act* or by any general Act of the Legislature affecting railways for the time being in force, or by a telephone or telegraph company incorporated under the general laws of Ontario;
- (d) purchase or otherwise acquire motor vehicles and trailers as defined by *The Highway Traffic Act*, aircraft and lines of buses, coaches, trucks and aircraft, and may operate, maintain, control and manage such vehicles, trailers, aircraft and lines for the purpose of carrying on, upon the highway and elsewhere, the business of a public carrier of passengers and freight; R.S.O. 1937, c. 55, s. 6.

Rev. Stat.,
c. 331.

Rev. Stat.,
c. 167.

- (e) purchase or otherwise acquire, construct, complete, equip, maintain and operate hotels, tourist resorts, restaurants, boats and vessels and lines of boats and vessels; 1946, c. 67, s. 6, *part*.
- (f) purchase or otherwise acquire, construct, complete, equip, maintain or operate such undertakings and provide such services in that part of Ontario which is served by the Commission, as the Commission may deem to be for the benefit of travellers therein or residents thereof;
- (g) make financial contributions to or for undertakings or services which are maintained or provided in that part of Ontario which is served by the Commission for the benefit of travellers therein or residents thereof. 1947, c. 74, s. 1.

8. Subject to the approval of the Lieutenant-Governor in Council, the Commission may make regulations for establishing and administering, through a board or otherwise, a pension fund for the payment of superannuation or disability allowances to the employees or members of the Commission or any class thereof. 1949, c. 70, s. 1 (1).

9. The provisions of *The Public Commercial Vehicles Act* and sections 2 to 11, 19 to 21 of *The Public Vehicles Act* and amendments thereto, and paragraph 1 of section 406 of *The Municipal Act* shall not apply to or be binding upon the Commission. R.S.O. 1937, c. 55, s. 7.

10. Subject to the approval of the Lieutenant-Governor in Council, the Commission may purchase or otherwise acquire or promote and cause to be incorporated and organized a company or companies under any public or private Act of any province or of Canada for the exercise of all or any of the powers conferred upon the Commission, or for the better operation, management or control of its undertaking or any part thereof, and every such company shall possess and enjoy all the powers, rights, remedies and immunities conferred by law or by this Act upon the Commission. 1946, c. 67, s. 7 (1).

11. Subject to the approval of the Lieutenant-Governor in Council, the Commission may enter into an agreement with the Nipissing Central Railway Company to acquire, lease or otherwise deal with the railway and the undertakings of the Company in whole or in part, and upon such acquisition, lease or other dealing, may operate such railway and its undertakings in the same manner and, subject to the agreement, to the same extent as if such railway and undertakings formed

Pension
plan
authorized.

Exemption
from
licences.
Rev. Stat.,
cc. 304, 322,
243.

Powers of
Commission
as to sub-
sidiary
companies.

Agreement
with
Nipissing
Central
Railway
Company.

part of the Ontario Northland Railway. 1941, c. 61, s. 2; 1946, c. 67, s. 8.

Approval of
Lieutenant-
Governor
in Council.

12. The location of the lines of railway and other works of the Commission and of the branches, and the plans of all works proposed, and the by-laws of the Commission shall be subject to the approval of the Lieutenant-Governor in Council. R.S.O. 1937, c. 55, s. 9.

Tolls and
fares.

13.—(1) The Commission may make regulations fixing the fares and tolls to be charged for all traffic carried and with respect to any telephone or telegraph lines operated by the Commission as herein authorized.

Cancellation
or amend-
ment by
Government.

(2) The regulations so made shall at all times be subject to cancellation or amendment at the direction of the Lieutenant-Governor in Council. R.S.O. 1937, c. 55, s. 10.

Regulations
to be deemed
administra-
tive.

(3) The regulations so made shall be deemed to be of an administrative and not of a legislative nature. 1949, c. 70, s. 2.

Agreement
with
railway
companies.

14.—(1) Subject to the approval and direction of the Lieutenant-Governor in Council, the Commission may enter into an agreement with any railway company to provide and secure such reciprocal running powers, traffic arrangements and other rights over and in respect of the railway of such company and the railway constructed or to be constructed by the Commission as will afford to such company and to the Commission reasonable and proper facilities for mutually exercising such running powers, fair and reasonable traffic arrangements and equitable mileage rates between the Commission and such company.

Approval
of Assembly
to lease
of lines.

(2) No lease by the Commission of any of the lines of the railway shall have effect until approved of by resolution of the Assembly except a lease made with the approval of the Lieutenant-Governor in Council of a spur, branch or portion of line not exceeding 10 miles in any one place. R.S.O. 1937, c. 55, s. 11 (1, 2).

Motive
power.

15. The Commission may operate the railway or any section thereof by electricity or by any other motive power. R.S.O. 1937, c. 55, s. 12; 1946, c. 67, s. 9.

Power
houses,
elevators,
docks,
vessels, etc.

16. The Commission may purchase land for and erect power houses, warehouses, elevators, docks, stations, workshops, garages, hangars, air harbours and landing grounds, offices and any other works necessary for the exercise of the powers conferred upon the Commission and may sell and

convey any such land as may from time to time be found superfluous for any such purpose. R.S.O. 1937, c. 55, s. 13 (1).

17. The Commission may erect and maintain all necessary and convenient buildings, garages, hangars, air harbours and landing grounds, filling stations, stations, depots, wharves and fixtures, and may from time to time alter, repair or enlarge the same, and may purchase and acquire motors, motor vehicles, trailers, aircraft, engines, carriages, wagons and other machinery and contrivances necessary for the working of the railway and its buses, trucks and aircraft lines and the accommodation and use of the passengers, freight and business of the Commission. R.S.O. 1937, c. 55, s. 14.

Erection, maintenance, alteration and repair of buildings, etc.

18. The Commission may sell or otherwise dispose of any motor vehicles, aircraft, equipment, boats, vessels, works or other property as may from time to time be found superfluous or unfit for the purposes of the Commission. R.S.O. 1937, c. 55, s. 15; 1946, c. 67, s. 11.

Power to sell or dispose of motor vehicles, etc.

19. The Commission may, subject to the approval of the Lieutenant-Governor in Council, construct, maintain and operate works for the production of electricity or other motive power for the railway, and for lighting and heating the rolling stock and other property of the railway, and may from time to time sell or lease any such electricity or other motive power not required for the purposes aforesaid to any person or corporation and may acquire and hold any property necessary for such purposes. R.S.O. 1937, c. 55, s. 16.

Works for production of electricity.

20. The Commission may acquire the right to convey and transmit electric or other power required for the working of the railway or any other works of the Commission, and lighting or heating the same over, through or under land other than the land of the Commission, and may purchase or otherwise acquire the right to lay conduits under, or erect poles or wires on or over such land as may be determined by the Commission, and along and upon any of the public highways or across any of the waters in Ontario, by the erection of the necessary fixtures, including posts, piers or abutments for sustaining the cords or wires for the lines, or the conduits for such electricity or other power upon and subject to such agreement in respect thereto as shall first be made between the Commission and any private owners of the land affected, or failing such agreement subject to the right of expropriation as provided in section 24. R.S.O. 1937, c. 55, s. 17.

Works for transmission of power.

21.—(1) The Lieutenant-Governor in Council may by Order in Council transfer to the Commission any ungranted

Transfer of ungranted Crown lands to Commission.

land in Ontario which in the opinion of the Commission is required for the railway or for convenient and necessary right-of-way, sidings, yards or stations or for the supply, for the purposes of the railway, of stone, gravel, earth, sand or water, or for any other purpose or use in connection with the railway or other works of the Commission.

Registration
of order
making
transfer.

(2) Registration of a certified copy of any such Order in Council in the registry office or offices of land titles, as the case may be, for the registry district in which the land is situate, shall be deemed to vest and shall vest in the Commission as trustee for Ontario, the land described in such Order in Council. R.S.O. 1937, c. 55, s. 18.

Appoint-
ment of
officers and
employees.

22. Subject to any general regulation which may be made by the Lieutenant-Governor in Council, the Commission may from time to time appoint such officers and employees as the Commission may deem necessary for the proper conduct of the business of the Commission, and may prescribe their duties and fix their remuneration. R.S.O. 1937, c. 55, s. 19.

Security for
safekeeping
of funds.

23. Security shall be given by any person entrusted by the Commission with the custody and control of money by virtue of his employment, in such manner and to such amount as may be prescribed by the Commission. R.S.O. 1937, c. 55, s. 20; 1946, c. 67, s. 12.

General
powers of
Commission.

24.—(1) The Commission shall have in respect of the railway and works, in addition to all the powers, rights, remedies and immunities conferred by this Act, all the powers, rights, remedies and immunities conferred upon any railway company by *The Railways Act*, or by any general Act of the Legislature affecting railways for the time being in force, but *The Railways Act* or any other such Act shall not in other respects apply to the railway or be binding upon the Commission.

Rev. Stat.,
c. 331.

Expropria-
tion of ease-
ments, etc.

(2) The Commission may from time to time, at its option, in lieu of expropriating land under any such general railway Act, expropriate such easements, rights of user and rights of support as is indicated in any notice to be given by the Commission in that behalf, and in any such case the compensation to the owners or other persons interested in any such land shall be reasonable compensation for the easements, rights of user and rights of support.

Alternative
method of
expropria-
tion.

(3) In lieu of proceeding in the manner provided by *The Railways Act* or any other general Act of the Legislature affecting railways, the Commission may at its option acquire and expropriate any such lands, easements, rights of user and

rights of support in the same manner *mutatis mutandis* as is provided in the case of land or property taken by the Crown as represented by the Minister of Public Works under *The Public Works Act*, and any claim for compensation for any such lands, easements, rights of user or right of support shall in that case be determined in the manner provided by *The Public Works Act*. Rev. Stat., cc. 331, 323.

(4) The railway of the Commission, including any branch lines, spurs or sidings, may be carried along or across existing highways upon leave therefor having been first obtained from the Ontario Municipal Board, and sections 118 to 128 of *The Railways Act* shall apply to any such occupation of existing highways, and to the construction and use of any such railways carried along or across the same and to any application for such leave. Carrying railways over highways. Rev. Stat., e. 331.

(5) Sections 285, 287 and 291 to 295 of *The Railways Act*, shall in respect of the Commission and its railway and the works thereof, apply thereto and to persons charged with offences or subject to the penalties therein mentioned in the same manner and to the same extent, *mutatis mutandis*, as if such sections had been enacted in this Act and formed part thereof. Application of Rev. Stat., c. 331.

(6) The Commission may appoint constables, and for the purposes mentioned in *The Railways Act* every person appointed by the Commission as a constable, and every conductor of a train of the Commission carrying passengers shall have in respect of his duties, all the powers and rights conferred upon railway constables and conductors of passenger trains, respectively, by *The Railways Act* or by any other general Act affecting such officials for the time being in force, and the provisions of *The Public Authorities Protection Act* respecting constables shall, *mutatis mutandis*, apply to any such constable and conductor. Powers of constables and conductors. Rev. Stat., cc. 331, 303. R.S.O. 1937, c. 55, s. 21.

25. Where in this Act the approval or consent of the Lieutenant-Governor in Council is made a condition precedent to the exercise of any power conferred on the Commission, such power may be exercised by any company which the Commission may purchase or otherwise acquire or cause to be incorporated providing the approval or consent of the Lieutenant-Governor in Council is obtained. R.S.O. 1937, c. 55, s. 22; 1946, c. 67, s. 13. Approval of Lieutenant-Governor in Council.

26. The railway shall as far as practicable be constructed, equipped and operated with railway supplies and rolling stock made, purchased or procured in Canada, if they can be obtained as cheaply and upon as good terms in Canada as Supplies and rolling stock to be purchased in Canada.

elsewhere, having regard to quality. R.S.O. 1937, c. 55, s. 23.

Employment of aliens in construction prohibited. R.S.C., 1927, c. 109.

27. No person shall be employed in the construction of the railway and works in contravention of *The Alien Labour Act* (Canada) or the provisions of any general railway Act of Ontario respecting the employment of alien labour. R.S.O. 1937, c. 55, s. 24.

Current rate of wages to be paid.

28. The workmen, labourers and servants employed in or about the construction or operation of the railway and works shall be paid such rates of wages as may be concurrently payable to workmen, labourers and servants engaged in similar occupations in the districts in which the railway and works are constructed and operated. R.S.O. 1937, c. 55, s. 25.

Transfer of lands to Commission for town sites, etc.

29.—(1) The Lieutenant-Governor in Council may from time to time by Order in Council transfer to the Commission for town sites, portions of the ungranted land of Ontario along the line of railway adjacent to stations or proposed stations, and the registration of a certified copy of any such Order in Council in the registry office or office of land titles, as the case may be, for the registry districts in which the land is situate shall vest in the Commission, as trustee for Ontario, the land described in any such Order in Council.

Acquiring other lands for same purpose.

(2) The Commission may for the same purpose from time to time acquire other land so situate by the same means as it is authorized to acquire land for right-of-way and station grounds, and shall have all the rights and powers with reference to the acquisition thereof by expropriation or otherwise as it has with reference to the acquisition of land for right-of-way, but the land acquired for town sites shall not exceed 1,000 acres for any one site.

Powers of Commission as to disposing of lands.

(3) The Commission may from time to time lay out, sell, lease or otherwise dispose of any part of such land as it may think proper, and may take mortgages or other securities for any unpaid purchase money. R.S.O. 1937, c. 55, s. 26.

Minerals and mining rights.

30. Subject to any general regulation which may be made by the Lieutenant-Governor in Council, the Commission may from time to time sell, lease or otherwise deal with mines, minerals and mining rights upon or under any portion or portions of the right-of-way, town sites or other lands now vested and hereafter vested in the Commission. R.S.O. 1937, c. 55, s. 27.

Dedication of highways not to affect mining rights.

31. The laying out, whether by plan or otherwise, or the dedication in any manner of any land within any town site as

or for public streets or highways shall not be deemed to revert in the Crown, or to vest in the corporation of the municipality in which the town site is situate, any mines, minerals or mining rights theretofore granted by the Crown to the Commission or to any other person on or under any such land so laid out or dedicated, but the Commission or such other grantees of the mines, minerals and mining rights on or under the land so laid out or dedicated shall have the right from time to time to carry on mining operations on or under such land, or to sell, lease or otherwise deal with the mines, minerals and mining rights on or under such land, subject, however, to the obligation of all parties actually conducting mining operations on or under any such land, whether as owners, lessees or otherwise, to conduct such mining operations in such way as will not interfere with public travel upon such streets and highways. R.S.O. 1937, c. 55, s. 28.

32. No such mining operations shall at any time be begun or carried on upon or under any land so laid out or dedicated as public streets or highways until after the person, whether as owner, lessee or otherwise, proposing to carry on such mining operations, has submitted to the council of the municipality in which the streets or highways are situate proper plans of the proposed mining operations with all necessary specifications and details, nor until the plans have been approved in writing by the engineer of the municipality or an engineer appointed by the corporation of the municipality for that purpose, and may thereafter be carried on in strict conformity to the plans and not otherwise. R.S.O. 1937, c. 55, s. 29.

Conditions precedent to right to carry on mining.

33.—(1) The Commission, and any or all of the commissioners or any officer of the Commission designated by the Commission for that purpose, may hold the shares of the Nipissing Central Railway Company or of any company purchased or otherwise acquired or caused to be incorporated by the Commission under the authority of this Act, in trust for Ontario and may exercise all the rights of shareholders in respect of the shares so held by them. R.S.O. 1937, c. 55, s. 30 (1); 1946, c. 67, s. 14 (1).

Holding shares.

(2) The Commission may advance to the Nipissing Central Railway Company such sums as may be required from time to time for the maintenance and operation of the line of railway of the company, or for the purchase, construction, repair and maintenance of the equipment thereof.

Commission authorized to advance funds to Nipissing Central for construction.

(3) The Commission, with the approval of the Lieutenant-Governor in Council, may also advance to the Nipissing Central Railway Company such sums as may from time to

For equipment.

time be required for the construction and completion of the line or lines of railway of the company. R.S.O. 1937, c. 55, s. 30 (2, 3).

Guarantee-
ing con-
tracts.

(4) The Commission may guarantee the performance of any or all obligations and undertakings of the Nipissing Central Railway Company or of any company purchased or otherwise acquired or caused to be incorporated by the Commission, and may guarantee the repayment of any advances made to any such company for the purposes of its obligations and undertakings or any of them, but no such guarantee shall be made either for the performance of obligations for construction or the repayment of moneys in respect of obligations for construction until such guarantee has been authorized by the Lieutenant-Governor in Council.

Commission
authorized
to advance
funds to sub-
sidiaries.

(5) The Commission, with the approval of the Lieutenant-Governor in Council, may advance to any company purchased or otherwise acquired or caused to be incorporated by the Commission, such sums as may be required for the obligations and undertakings of the company. 1946, c. 67, s. 14 (2).

Commission
authorized
to issue
bonds, etc.

34.—(1) Subject to the approval of the Lieutenant-Governor in Council, the Commission may borrow money from time to time for carrying out its purposes, and may issue bonds, debentures, notes, or other securities to provide for the repayment of any moneys so borrowed and such securities may be charged upon and secured by the property, assets, rights, rents and revenues of the Commission present or future therein described and may be payable at such times and in such manner and at such place or places in Canada or elsewhere and may bear such interest as the Commission may deem proper. R.S.O. 1937, c. 55, s. 31 (1); 1947, c. 74, s. 2.

Additional
financing
powers.

(2) Money borrowed from time to time for carrying out the purposes of the Commission may, without restricting the generality of the power, be used to refund or repay any existing indebtedness or to make repayment on account of advances by the Province to the Commission or to pay any indebtedness which has been guaranteed or assumed by the Commission. 1948, c. 66, s. 1.

Guarantee-
ing bonds.

(3) The Lieutenant-Governor in Council may authorize the Treasurer of Ontario for and on behalf of Ontario to guarantee the payment of any securities issued by the Commission for the purposes aforesaid.

Form of
guaranty.

(4) The form of guaranty and the manner of its execution shall be determined by the Lieutenant-Governor in Council.

Interpre-
tation.

(5) For the purposes of this section, "railway" means the railway which the Commission or the Nipissing Central Rail-

way Company is authorized to construct or operate and includes all branches, extensions, sidings, stations, depots, wharves, rolling stock, equipment, stores, property, real or personal, and works connected therewith and also any railway bridge, tunnel, or other structure which the Commission or the Nipissing Central Railway Company is authorized to construct. R.S.O. 1937, c. 55, s. 31 (2-4).

35. The Lieutenant-Governor in Council may from time to time authorize the Treasurer of Ontario to advance to the Commission out of the Consolidated Revenue Fund, such sums as may be deemed necessary for the construction, maintenance and operation of the railway and for the purchase, maintenance and operation of motor vehicles, trailers, aircraft, lines of buses, coaches, trucks and aircraft and equipment therefor or other works of the Commission, and all moneys so advanced shall be duly accounted for by the Commission. R.S.O. 1937, c. 55, s. 32.

Advances
out of
Consolidated
Revenue.

36. An account to be called the Ontario Northland Transportation Commission Account shall be kept by the Treasury Department of all payments out of the Consolidated Revenue Fund and of moneys received from the Commission in repayment of any indebtedness incurred by the Commission. R.S.O. 1937, c. 55, s. 33; 1946, c. 67, s. 15.

Special
account in
books of
Treasury.

37.—(1) The revenues and receipts of the Commission shall be applied to the payment of all costs, liabilities, obligations and expenditures properly incurred or made, and all surpluses shall be paid into the Consolidated Revenue Fund at such times and in such amounts as the Lieutenant-Governor in Council may direct. 1947, c. 74, s. 3.

Application
of revenue.

(2) The Commission may provide a sinking fund for the purpose of the redemption of any securities issued by the Commission. 1947, c. 74, s. 3.

Sinking
fund.

(3) The amount of surplus to the credit of any sinking fund provided by the Commission shall be invested in securities of the Province of Ontario at such times and in such manner as the Lieutenant-Governor in Council may direct. R.S.O. 1937, c. 55, s. 34 (2).

Investment
of surplus
moneys.

38. The Commission shall cause books to be provided and kept and true and regular accounts to be entered therein of all sums of money received and paid, and of the several purposes for which the same were received and paid, which books shall at all times be open to the inspection of any member of the Commission and of the Treasurer of Ontario, and of any

Accounts to
be kept by
Commission.

person appointed by the Commission or Treasurer for that purpose and of any other person appointed by the Lieutenant-Governor, and any member of the Commission, and any of such persons may take copies of or extracts from such books. R.S.O. 1937, c. 55, s. 35.

Auditor. **39.** The provincial Auditor shall be the auditor of the Commission and he shall audit the books, records and accounts of the Commission and prepare an annual auditor's statement covering the fiscal year last past. 1948, c. 66, s. 2, *part.*

Fiscal year. **40.** The fiscal periods of the Commission shall end on the 31st day of December in each year. 1948, c. 66, s. 2, *part.*

Annual report. **41.**—(1) The Commission shall after the close of each fiscal year of the Commission file with the Provincial Secretary an annual report which shall include the report of its auditor and which shall set forth the operations of the Commission for the fiscal year then last past and such particulars as may appear to the Commission to be of public interest or as may be required by the Lieutenant-Governor in Council.

Tabling. (2) The Provincial Secretary shall submit the report to the Lieutenant-Governor in Council and shall then lay the report before the Assembly if it is in session, or if not, at the next ensuing session. 1949, c. 70, s. 3.

Commission and officers not to contract with commissioners. **42.** No member of the Commission nor any officer or employee thereof shall make or enter into any contract with the Commission, or be pecuniarily interested directly or indirectly in any contract or work in regard to which any portion of the money under the control of the Commission is being or is to be expended. R.S.O. 1937, c. 55, s. 37.

Leave of Attorney-General. **43.** No action shall be brought against the Commission or against any member thereof for anything done or omitted in the exercise of his office without the consent of the Attorney-General. R.S.O. 1937, c. 55, s. 38.

CHAPTER 265

The Operating Engineers Act

1. In this Act,

Interpreta-
tion.

- (a) "board" means the board of examiners appointed under this Act;
- (b) "compressor plant" includes the machinery and equipment used for compressing or storing air or other gas under pressure when the brake rating of the motive power driving such machinery and equipment exceeds 25 horse power, except when the motive power is steam, in which case such machinery and equipment shall form part of a steam plant;
- (c) "fireman" means a person who is the holder of a certificate of qualification authorizing him to perform the work and duties prescribed by the regulations relating to firemen;
- (d) "hoisting plant" includes the machinery and equipment used for raising or lowering materials except permanently installed freight and passenger conveyances and except also when the motive power for such machinery and equipment is an internal combustion engine or electric motor of 25 horse power or less;
- (e) "horse power of an internal combustion engine" means horse power as calculated from the following formula:

$$\text{H.P.} = \frac{(\text{diam. of cylinders in inches})^2 \times \text{number of cylinders}}{2.5}$$

- (f) "horse power of a stationary steam plant" means horse power as calculated from the following formulas:
 - (i) one horse power equals 15 square feet of heating surface in return tubular boilers,
 - (ii) one horse power equals 12 square feet of heating surface in internally fired boilers,
 - (iii) one horse power equals 10 square feet of heating surface in water tubular boilers,

- (iv) one horse power equals the input of 10 k.w. hours in electric boilers;
- (g) "inspector" means an officer of the Department of Labour;
- (h) "Minister" means Minister of Labour;
- (i) "operating engineer" means a person who is a holder of a certificate of qualification authorizing him to operate any one or more of the kinds of plants defined in this section;
- (j) "portable steam plant" includes a steam boiler and the engines, machinery and equipment used in connection therewith when such boiler is not permanently attached to a solid base;
- (k) "stationary steam plant" includes a steam boiler or boilers and the engines, pumps, machinery and equipment used in connection therewith whenever the horse power rating of the boiler or boilers combined exceeds 25;
- (l) "traction steam plant" includes a steam boiler and the engines, machinery and equipment connected therewith when such boiler and connections are automotive. R.S.O. 1937, c. 238, s. 1.

Board of
examiners.

2.—(1) The Lieutenant-Governor in Council may appoint a board of examiners to be composed of either three or five competent and independent operating engineers, one of whom shall be designated as the chairman and each of whom shall possess the qualifications required by the regulations and shall hold office during pleasure.

Adminis-
trative staff.

(2) The Lieutenant-Governor in Council may assign such examiners, officers, inspectors, clerks and servants of the Department of Labour for the purposes of the board as may be deemed necessary.

Annual
report of
the board.

(3) The board on or before the 1st day of May in every year shall report in writing to the Minister with respect to the fiscal year ending on the 31st day of March in such year showing,

- (a) the number of certificates granted;
- (b) the number of applications for certificates refused and the causes for refusal;
- (c) the number of certificates revoked, cancelled or suspended and the causes therefor;

- (d) the amount of fees received from applicants or holders of certificates;
- (e) the number of plants registered during the year;
- (f) the amount of fees received from plant owners for registration purposes;
- (g) such other matters as may be directed by the Minister or the Lieutenant-Governor in Council.

(4) The board shall, subject to the regulations, have authority to administer and enforce this Act and prescribe the subjects in which applicants for certificates of qualification as operating engineers and firemen shall be examined and to provide for and conduct such examinations and report thereon to the Minister with its recommendation as to each applicant. R.S.O. 1937, c. 238, s. 2. Powers of board.

3. The Lieutenant-Governor in Council, upon the recommendation of the Minister, may make regulations, Regulations.

- (a) prescribing the qualifications to be possessed by members of the board;
- (b) establishing different classifications of operating engineers and firemen and defining the scope of work and duties which may be performed by the persons in each classification;
- (c) prescribing the forms of certificates of qualification for each classification of operating engineers and firemen and the qualifications to be possessed by applicants for such certificates;
- (d) respecting the examination of applicants for certificates and the evidence to be furnished by them as to previous training, experience, sobriety and character;
- (e) prescribing the fees payable upon examination and for certificates of qualification;
- (f) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1937, c. 238, s. 3.

4.—(1) On the recommendation of the board and on payment of the fees prescribed by the regulations, the Minister may issue a certificate of qualification as an operating engineer or fireman to any person who is a British subject and who has passed the examination prescribed by the board, or to any person who, in the opinion of the board, is the holder of a Issue of certificates to engineers and firemen.

certificate of an equivalent rating issued by the properly constituted authority in any other province of Canada.

Issue of
certificate
of plant
registration.

(2) On the recommendation of the board and on payment of the fees prescribed by the regulations, the Minister may issue to the owner of any kind of plant to which this Act applies a certificate of registration.

Cancellation,
etc., of
certificates.

(3) Subject to the regulations, any certificate may be revoked, cancelled or suspended by the Minister at any time.

Information
from plant
owners.

(4) Every person who is the owner of a stationary steam plant or compressor plant or a portable steam plant shall furnish to the board, on a printed form supplied by the board on application therefor, complete information as to the horse power of the plant and the pressure at which safety valves on boilers and tanks are set to relieve pressure, and on receipt of such information the Minister may issue a certificate of registration, and any change made in the plant subsequent to the issuing of such certificate shall be reported to the board within 15 days of the making of such change.

Information
as to
internal
combustion
engines.

(5) Every person who is the owner of an internal combustion engine shall supply to the board upon request complete information as to the diameter and number of cylinders in such engine. R.S.O. 1937, c. 238, s. 4.

Appeal to
Minister
from
decisions
of board.

5. Any person who deems himself aggrieved by a decision of the board may appeal therefrom to the Minister, upon giving such notice as the Minister may prescribe, and the decision of the Minister shall be final. R.S.O. 1937, c. 238, s. 5.

Certificates
to be exposed
to view.

6.—(1) The certificate of qualification shall at all times be exposed to view in the engine, compressor or boiler room in which the holder thereof is employed, except in the case of a hoisting plant, traction steam plant or portable steam plant, when such certificate shall be carried upon the person of the operator.

Plant
certificates
to be exposed
to view.

(2) The certificate of plant registration shall at all times be exposed to view in the engine, compressor or boiler room of the plant.

Consequences
of failure.

(3) Failure to comply with the provisions of subsections 1 and 2 shall be *prima facie* evidence of the lack of qualification under this Act. R.S.O. 1937, c. 238, s. 6.

Plant
inspection.

7.—(1) Any member of the board or, on presentation of authority in writing signed by the Minister, any inspector may enter any premises wherein he has reason to believe there is a plant of the kind mentioned in section 1 and make

such inspection as may be necessary to determine whether the provisions of this Act are being complied with.

(2) Every person who interferes with or obstructs a member of the board or an inspector in the exercise of the powers conferred upon him shall be liable to a penalty of not less than \$10 and not more than \$100. Penalty for interference.

(3) Every person who impersonates another and presents himself for examination under a false name in order to obtain a certificate for a person other than himself shall be liable to a penalty of not less than \$50 and not more than \$200. R.S.O. 1937, c. 238, ss. 7, 10 (2). Penalty for impersonation.

8.—(1) No person other than an operating engineer shall perform the work or duties of an operating engineer. Operation by unqualified person prohibited.

(2) No person other than an operating engineer or a fireman shall perform the work or duties of a fireman. Fireman.

(3) No operating engineer or fireman may perform work or duties which are not authorized by the scope of his certificate of qualification. Unauthorized work.

(4) No person whose certificate of qualification has been cancelled or suspended may after cancellation or during suspension perform the work or duties of an operating engineer or fireman. After cancellation or suspension.

(5) No person may employ or permit any person who is not an operating engineer or fireman to perform the work or duties of an operating engineer or fireman, as the case may be, or any person who is an operating engineer or fireman to perform any work or duties which are not authorized by the scope of his certificate of qualification. Employment of unauthorized person.

(6) If for any reason other than dismissal an operating engineer or fireman is absent from his duties without having given his employer not less than seven days notice of his intended absence his duties may be performed by any person for a period not exceeding seven days. R.S.O. 1937, c. 238, s. 8. Absence of qualified person.

9. This Act shall not apply to,

Exceptions from Act.

- (a) workmen acting under the personal direction and supervision of an operating engineer who is actually in charge of a stationary steam plant, compressor plant, portable steam plant or traction steam plant or to workmen engaged in installing, setting up or testing a stationary steam plant, compressor plant, portable steam plant or traction steam plant, provided, however, that such exceptions shall not permit

the operation of hoisting plants by any person other than an operating engineer;

- (b) winze hoists and shaft hoists in mines;
- (c) steam plants while used in farming operations as distinguished from horticultural operations;
- (d) locomotives operating on a chartered railroad;
- (e) any kind of steam plant situated on a vessel floating on navigable waters while such plant is not adjacent to the shore. R.S.O. 1937, c. 238, s. 9.

Penalties.

10. Every person who contravenes any of the provisions of this Act or of the regulations shall be guilty of an offence and on summary conviction shall, where no other penalty is provided, be liable to a penalty of not less than \$25 and not more than \$50. R.S.O. 1937, c. 238, s. 10.

Fees payable
to board.

11. The fees collected shall be remitted to the board and every cheque in respect thereof shall be made payable to the Treasurer of Ontario. R.S.O. 1937, c. 238, s. 11.

CHAPTER 266

The Optometry Act

1. In this Act,

Interpre-
tation.

- (a) "Board" means Board of Examiners in Optometry appointed under this Act;
- (b) "ophthalmic lens" means any form of lens or prism or the combination of the same, devised for the relief or correction of any visual or muscular error or defect of the eye;
- (c) "optician" means any person who dispenses any ophthalmic lens or lenses or spectacles or eye-glasses devised for the relief or correction of any visual or muscular error or defect of the eye, or fills any optometrist's or duly qualified medical practitioner's prescription for any such lenses, spectacles or eye-glasses;
- (d) "optometrist" means any person who practises optometry as herein defined;
- (e) "optometry" means the measurement of or the attempt to measure by any means, other than the use of drugs, the refractive or muscular condition of the eye, the prescribing of any ophthalmic lens or lenses or the prescribing of any spectacles or eye-glasses or ocular calisthenics to any person for the relief or correction of any visual or muscular error or defect of the eye;
- (f) "prescribe" includes the supply or loan by any person, or his agent, to any other person, of a mechanical instrument for the purpose of such other person, by means of such instrument, making a self-measurement of the refractive or muscular condition of the eye;
- (g) "regulations" means regulations made under this Act. R.S.O. 1937, c. 246, s. 1; 1939, c. 33, s. 1.

2.—(1) There shall be a board known as the Board of Examiners in Optometry which shall be composed of five persons who shall be appointed by and hold office during the

Board of
Examiners
in Op-
tometry.

pleasure of the Lieutenant-Governor in Council. R.S.O. 1937, c. 246, s. 2 (1); 1944, c. 45, s. 1 (1).

Chairman.

(2) The Lieutenant-Governor in Council may appoint one of the members to be chairman of the Board. R.S.O. 1937, c. 246, s. 2 (2); 1944, c. 45, s. 1 (2).

Secretary.

(3) The Board may appoint a secretary and fix his remuneration which shall be payable out of the funds of the Board. 1944, c. 45, s. 1 (3).

Regulations.

3.—(1) Subject to the approval of the Lieutenant-Governor in Council, the Board may make regulations,

- (a) providing for a course of instruction in any technical school or other institution in Ontario for the training of persons to become optometrists or opticians;
- (b) prescribing the requirements for registration under this Act;
- (c) fixing the fees payable for the trial of examinations and for registration;
- (d) providing for the issuance and renewal of certificates of registration and of exemption and for the fees payable for such issuance and renewal;
- (e) prescribing the procedure of the Board at its meetings;
- (f) fixing the remuneration of the members of the Board and providing for the payment of necessary expenses of the Board in the conduct of its business;
- (g) prescribing the duties of the secretary and other persons employed by the Board;
- (h) defining disgraceful conduct for the purposes of this Act;
- (i) regulating the advertising of spectacles and eyeglasses, the advertising of the prices thereof, and the advertising of the terms upon which they may be purchased;
- (j) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1937, c. 246, s. 3 (1); 1944, c. 45, s. 2; 1946, c. 68, s. 1.

Amending or
repealing
regulations.

(2) The Lieutenant-Governor in Council may at any time amend or repeal any of the regulations. R.S.O. 1937, c. 246, s. 3 (2).

4. The Board shall provide a register which shall be kept ^{Register.} by the secretary and in which shall be entered the name, address and qualification of every person registered as an optometrist or optician in Ontario and every person who is the holder of a certificate of exemption. R.S.O. 1937, c. 246, s. 4.

5. Every person who files with the secretary of the Board ^{Admission to registration.} an application, verified by oath or by statutory declaration, stating therein that the applicant is more than 21 years of age, is of good moral character, and possesses the qualifications as to general education, training and experience prescribed by the regulations, may be admitted to examination by the Board as to his qualifications as an optometrist or optician, and upon passing such examination shall be registered by the Board as possessing the qualifications required by this Act, and shall receive from the Board a certificate of such registration. R.S.O. 1937, c. 246, s. 5.

6. Every person who,

^{Certificate of exemption.}

- (a) on the 8th day of April, 1936, was carrying on business as an optometrist or optician in Ontario;
- (b) is a British subject by birth or naturalization;
- (c) is of good character;
- (d) possesses such education and technical qualifications as may be prescribed by the regulations,

shall be entitled to receive from the Board a certificate of exemption from registration under this Act upon furnishing proof of such facts to the satisfaction of the Board and complying with the requirements contained in the regulations. R.S.O. 1937, c. 246, s. 6; 1946, c. 68, s. 2.

7.—(1) The Board may by order suspend or revoke the ^{Suspension of certificate.} certificate of registration or exemption of any person whom it finds has been guilty of disgraceful conduct as defined by the regulations, or of incompetency, fraud or misrepresentation in connection with the practice of optometry or as an optician by such person.

(2) Before making a finding of disgraceful conduct, incom- ^{Hearing.} petency, fraud or misrepresentation in respect of any person under subsection 1, the Board shall, by notice in writing, advise such person of the complaint or charge which has been made against him and shall provide him with an opportunity of appearing before the Board at a public hearing and of presenting such evidence and making such representations as he may desire.

Review.

(3) The Board may review any finding or order made by it and make such further finding or order as it deems proper.

Power to
summon
witnesses.

Rev. Stat.,
c. 308.

(4) For the purposes of this section the chairman or acting chairman of the Board shall have all the powers that may be conferred upon a commissioner appointed under *The Public Inquiries Act*.

Appeal.

(5) An appeal shall lie from any order or finding of the Board to a judge of the Supreme Court by way of originating notice and such appeal shall be upon the evidence and representations presented and made to the Board and the judge may give such directions as he deems expedient and may make such finding and order as he deems proper and his decision shall be final. 1944, c. 45, s. 3.

Offences.

8.—(1) Every person not being the holder of a certificate under this Act or whose certificate is for the time being suspended or has been revoked, who practises optometry or as an optician or appends to his name the term "optometrist" or "optician" or any abbreviation thereof, or wilfully or falsely pretends to be, or wilfully or falsely takes or uses any name, title, addition, abbreviation or description implying or calculated to lead any person to believe that he is or is recognized by law as an optometrist or optician, as the case may be, or that he is registered or possesses a certificate as an optometrist or optician under this Act shall be guilty of an offence.

Peddling
prohibited.

(2) Every person, whether a holder of a certificate under this Act or not, who peddles or sells or offers for sale from door to door or who prescribes by mail spectacles or eyeglasses shall be guilty of an offence.

Penalties.

(3) Every person who is guilty of an offence under this Act shall on summary conviction be liable for a first offence to a penalty of not less than \$10 and not more than \$100 and for a second or subsequent offence to a penalty of not less than \$25 and not more than \$500. R.S.O. 1937, c. 246, s. 8.

Board may
establish
schools of
instruction.

9.—(1) The Board may enter into agreements and arrangements with any recognized university in Ontario for the establishment of a faculty school and may make agreements and arrangements with schools and other educational institutions for the establishment of courses of study for persons seeking to qualify themselves to practise as optometrists and opticians and may establish and carry on its own schools of instruction and appoint such professors, lecturers, instructors, officers, servants and employees thereof as may be deemed necessary.

Powers of
Board as
to using
moneys and
holding
ands.

(2) The Board may use any moneys that have heretofore or may hereafter come into its hands for any of the purposes

and objects mentioned in subsection 1, and shall have and possess all powers that may be necessary or convenient for such purposes and objects and shall be deemed trustees for such purposes and objects with power without licence in mortmain to acquire, hold, mortgage, charge, lease, sell or otherwise deal with real estate and to borrow money for such purposes and objects and to secure payment thereof by mortgage or pledge of the real and personal property vested in the Board.

(3) The Board may take and execute any deed, mortgage, lease or other instrument under the name of "The Board of Examiners in Optometry", and every such deed, mortgage, lease or other instrument given and made by the Board shall be deemed to be sufficiently executed when executed under the hand of the chairman and secretary of the Board and sealed with the seal of the Board, and the Board may sue and be sued by and under the said name. R.S.O. 1937, c. 246, s. 9.

Manner of execution of instruments by Board.

10.—(1) Nothing in this Act shall apply to a duly qualified medical practitioner or to any person, firm or corporation carrying on business in Ontario as a *bona fide* wholesale manufacturer of optical goods who does not prescribe directly or indirectly by mail or through an agent or travelling salesman or otherwise in any manner whatsoever, any ophthalmic lens or spectacles or eye-glasses devised for the relief or correction of any visual or muscular error or defect of the eye.

Exemption from operation of Act.

(2) Nothing in this Act shall authorize the Board to regulate, control or interfere with the prices which may be charged for eye-glasses or spectacles, the fees which may be charged for the examination of eyes or the prescribing of eye-glasses or spectacles or the terms upon which such charges or fees may be paid. R.S.O. 1937, c. 246, s. 10 (1, 2).

Interference with prices prohibited.

- (3) Nothing in this Act shall prevent,
- Act not to prevent certain practices.
- (a) the practice by a retail merchant of optometry or as an optician at his ordinary place of business or the carrying on therein of an optical department, if such practice and optical department are in charge of a registered optometrist or a duly qualified medical practitioner; or
 - (b) the selling or offering for sale by a retail merchant at his ordinary place of business of spectacles or eye-glasses; or
 - (c) the provision by a retail merchant at his ordinary place of business of a test card or chart, other than a mechanical instrument, so that customers therein

may select spectacles or eye-glasses kept for sale by such retail merchant at his place of business; or

- (d) the furnishing or supplying through the mail by any person to any other person of a test card or chart, other than a mechanical instrument, whereby such other person may select spectacles or eye-glasses; or
 - (e) the unrestricted sale of protective glasses for industrial purposes, coloured glasses not embodying any ophthalmic lens or lenses, goggles or simple magnifying glasses not sold or devised for the relief or correction of any visual or muscular error or defect of the eye. R.S.O. 1937, c. 246, s. 10 (3); 1944, c. 45, s. 4.
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CHAPTER 267

The Parents' Maintenance Act

1.—(1) A son or daughter shall be liable for the support of his or her dependent parent to the extent hereinafter mentioned. Liability of child.

(2) A parent shall be deemed to be dependent where he is destitute or where by reason of age, disease, or infirmity he is unable to maintain himself. When parent to be deemed dependent. R.S.O. 1937, c. 212, s. 1.

2.—(1) A dependent parent, or any other person with the consent in writing of the Crown attorney, may lay an information before a magistrate where such parent or any son or daughter resides, who shall issue a summons (Form 1), and if upon the hearing it appears that the parent is dependent and that the son or daughter has sufficient means to provide in whole or in part for such parent, the magistrate, having regard to the whole circumstances of the case, may make an order (Form 2) for the son or daughter to pay for the support of such parent a weekly sum of money not exceeding \$20, with or without costs. Summons and order for maintenance.

(2) Proceedings may be taken under this Act,

- (a) by the Public Trustee in the case of a parent who is an inmate in an institution under *The Mental Hospitals Act*; or Maintenance of parent in hospital or public institution. Rev. Stat., c. 229.
- (b) by the governing body of any hospital, home for the aged, house of refuge or other charitable institution in which such dependent parent is an inmate; or
- (c) by any local authority or commission acting under any Act for the payment of pensions to aged persons under the *Old Age Pensions Act* (Canada) in the case of a person applying for or in receipt of such pension, R.S.C. 1927, c. 156.

and the consent in writing of the Crown attorney shall not be necessary before the laying of an information in any such case.

(3) An order may be made under this Act although the dependent parent is being cared for in any sanatorium, home, mental hospital, or other eleemosynary institution. Power not affected by maintenance of parent by charity.

Summoning
more than
one child.

(4) Where there are several children, the magistrate may require the summons to be served upon others not already summoned and may order such of them as ought, in his opinion, to contribute to the support of the parent, to share in the payments ordered and shall apportion the sum to be paid among the children having due regard to their ability and obligations.

Time limit.

(5) The magistrate may in any order set a time limit, not exceeding 30 days, within which each sum of money ordered to be paid and the costs shall be paid. R.S.O. 1937, c. 212, s. 2.

Varying
order or
rehearing
application.

3. Upon proof that the circumstances of any of the parties have changed since the making of any order, any order may be varied, or at the instance of either party on notice to the other an application may at any time be reheard, and any order may be confirmed, rescinded, or varied,

(a) by the magistrate who made the order; or

(b) if such magistrate is dead, ill or absent from his territorial jurisdiction, by any other magistrate whose jurisdiction in the same locality is such that an information similar to the original information could be laid before him; or

(c) in any case, by any magistrate who has jurisdiction in the locality in which the person in whose favour the order is made resides. R.S.O. 1937, c. 212, s. 3.

Application
of Rev. Stat.,
c. 379.

4.—(1) Save where otherwise provided, proceedings under this Act shall be in accordance with *The Summary Convictions Act*, and any order for the payment of money made hereunder may be enforced as if it were an order or conviction made under that Act but imprisonment shall only be ordered under subsection 2.

Enforcement
of order.

(2) Whenever default is made in the payment of any sum of money ordered to be paid, the magistrate who made the order, or any other magistrate before whom an information similar to the original information could be laid, or any magistrate who has jurisdiction in the locality in which the person in whose favour the order is made resides,

by summons;

(a) may from time to time summon the person in default to explain the default; and

by warrant
to arrest;

(b) may, where service of the summons has been proved, and the person summoned does not appear or sufficient reason for his absence is not given, or where it appears that the summons cannot be served or where

an order of imprisonment has been made, issue a warrant for the arrest of such person; and

- (c) may, when a warrant has been issued, or where the person in default fails to satisfy the magistrate that such default is due to inability to pay, order and adjudge such person to be imprisoned for a term of not more than three months unless the sums of money payable under the order are sooner paid. R.S.O. 1937, c. 212, s. 4.

5. An order for payment of money made under this Act may also be filed with the clerk of any division court and enforced by execution and by judgment summons as in the case of a judgment in the division court. R.S.O. 1937, c. 212, s. 5.

FORM 1

(Section 2 (1))

THE PARENTS' MAINTENANCE ACT

SUMMONS

To.....

Of.....

City
District
County

} Of.....

Whereas an application has this day been made by.....
.....on behalf of.....
.....to the undersigned magistrate, or justices of the peace,
for a summons under *The Parents' Maintenance Act*.

These are, therefore, lawful to command you to appear before the undersigned, or such magistrate or justices of the peace as may be then and there present in my, or our, stead at.....on theday after the service thereof, at the hour of in thenoon, to show cause why an order should not be made against you, to pay to the support of your such weekly sum not exceeding twenty dollars (\$20) as may be considered to be in accordance with your means and with the means of your said..... and with the means of your said family, if any.

Given under.....hand
and seal this.....
.....day of....., 19....

FORM 2

(Section 2 (1))

THE PARENTS' MAINTENANCE ACT

ORDER

To.....

Of.....

City
District
County

} Of.....

Upon reading the summons dated the.....
day of, 19....., issued by.....
..... magistrate for.....or justices of the peace
for.....upon the application of.....
under the provisions of *The Parents' Maintenance Act*, and upon hearing
all the parties thereto, and the evidence adduced, and it appearing that
the said.....is entitled to the protection and
benefit of the said Act;

I, or we, the undersigned, do hereby order that the said.....
.....does hereafter pay to his, or her.....
the sum of \$..... per week, or month, for his, or her, support, the first
payment to be made on the.....day of....., 19.....,
together with the costs of these proceedings, which amount to \$.....
which shall be paid on or before theday of
....., 19.....

Given under.....hand }
and seal this.....
.....day of....., 19..... }

R.S.O. 1937, c. 212, Sched.

CHAPTER 268

The Parole Act

1. In this Act,

Interpre-
tation.

- (a) "Board" means Board of Parole;
- (b) "parole officer" includes the chief parole officer;
- (c) "prisoner" means,
 - (i) a person convicted of an offence against a statute of Ontario or against a municipal by-law and sentenced to an indeterminate sentence, and
 - (ii) a prisoner referred to in section 43 of the *Prisons and Reformatories Act* (Canada) and sentenced to an indeterminate sentence; R.S.C. 1927, c. 163.
- (d) "regulations" means regulations made under this Act;
- (e) "secretary" means secretary of the Board. 1946, c. 69, s. 1.

2. The Board of Parole heretofore constituted is continued and shall be composed of not more than six persons appointed by the Lieutenant-Governor in Council. 1946, c. 69, s. 2. Board of Parole established.

3.—(1) The Lieutenant-Governor in Council may designate one of the members of the Board to be chairman thereof. Chairman.

(2) Three members of the Board shall be a quorum. 1946, c. 69, s. 3. Quorum.

4. The Lieutenant-Governor in Council may appoint a secretary of the Board, a chief parole officer and such parole officers as he may deem necessary. 1946, c. 69, s. 4. Appointment of secretary, chief parole officer and assistants.

5.—(1) The chairman of the Board, the secretary and the parole officers may be paid such salary as may be determined by the Lieutenant-Governor in Council. Salaries of chairman, secretary and parole officers.

(2) The members of the Board, other than the chairman, shall serve without salary but the Lieutenant-Governor in Council may fix a per diem allowance to be payable to the Allowances for Board members.

members for their attendance at the meetings of the Board or for other attendances in connection with the transaction of any business of the Board.

Travelling
and living
expenses.

(3) The chairman and members of the Board, the secretary and the parole officers shall be entitled to reasonable and necessary travelling and living expenses while absent from home on the business of the Board as certified by the chairman of the Board.

Payment out
of appro-
priations.

(4) All such salaries, remuneration, allowances, travelling and living expenses and all other expenses of the Board shall be paid out of such moneys as may be appropriated by the Legislature for the general purposes of the Board. 1946, c. 69, s. 5.

Release of
prisoners
on parole.

6. Subject to the regulations, the Board may order the release on parole of any prisoner,

(a) in the case of a prisoner referred to in subclause i of clause *c* of section 1, upon such conditions as the Board may deem proper; and

(b) in the case of a prisoner referred to in subclause ii of clause *c* of section 1, upon conditions approved by the Minister of Justice under section 43 of the *Prisons and Reformatories Act* (Canada). 1946, c. 69, s. 6.

R.S.C. 1927,
c. 163.

Re-taking
prisoners
on breach
of conditions
of parole.

7. In the case of prisoners referred to in subclause i of clause *c* of section 1, the Board may provide that a prisoner who fails to observe the conditions of his parole may be taken into custody by a parole officer or by any person appointed for such purpose, and may be returned to the prison or other place from which he was paroled. 1946, c. 69, s. 7.

Assistance
to prisoners.

8. It shall be the duty of the Board to assist prisoners on parole in securing employment with trustworthy persons and in this manner to ensure as far as possible the success of the parole system. 1946, c. 69, s. 8.

Returns.

9. It shall be the duty of every public officer or other person having information or having access to any information bearing upon the fitness of a prisoner to be paroled, to make such return in writing to the Board as may be required by the regulations. 1946, c. 69, s. 9.

Annual
report of
Board.

10. The Board shall in each year, on or before the 30th day of June, make a report in writing to the Lieutenant-Governor

in Council of the history and proceedings of the Board during the twelve-month period ending on the 31st day of March of such year. 1946, c. 69, s. 10.

11. Nothing in this Act shall be construed as affecting or ^{Pardoning} impairing or as intending or purporting to affect or impair the ^{powers not} powers of the Governor-General of Canada or the Lieutenant-Governor of Ontario to grant a reprieve, pardon, or commutation of sentence in any case. 1946, c. 69, s. 11.

12.—(1) Subject to the approval of the Lieutenant-Governor in Council, the Board may make regulations,

- (a) defining the duties, powers and responsibilities of the Board, the chief parole officer, parole officers and the secretary of the Board;
- (b) defining the conditions under which a prisoner may be paroled;
- (c) prescribing the powers of the Board in dealing with a prisoner on parole who fails to comply with the terms upon which he has been paroled;
- (d) prescribing the form of returns to be made by public officers and other persons containing information as to the antecedents of any prisoner;
- (e) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) Such of the regulations as are approved by the Minister of Justice (Canada) shall have force and effect as to prisoners referred to in section 43 of the *Prisons and Reformatories Act* (Canada). 1946, c. 69, s. 12.

<sup>Approval
by Minister
of Justice.
R.S.C. 1927,
c. 163.</sup>

CHAPTER 269

The Partition Act

1. In this Act,

Interpreta-
tion.

(a) "court" means the Supreme Court;

(b) "land" includes lands, tenements, and hereditaments, and all estate and interests therein. R.S.O. 1937, c. 157, s. 1.

2. All joint tenants, tenants in common, and coparceners, all dowresses, and parties entitled to dower, tenants by the curtesy, mortgagees or other creditors having liens on, and all parties interested in, to or out of, any land in Ontario, may be compelled to make or suffer partition or sale of the land, or any part thereof, whether the estate is legal and equitable or equitable only. R.S.O. 1937, c. 157, s. 2.

3.—(1) Any person interested in land in Ontario, or the guardian appointed by a surrogate court of an infant entitled to the immediate possession of any estate therein, may take proceedings for the partition of such land or for the sale thereof under the directions of the court if such sale is considered by the court to be more advantageous to the parties interested.

(2) Where the land is held in joint tenancy or tenancy in common or coparcenary by reason of a devise or an intestacy, no proceedings shall be taken until one year after the decease of the testator or person dying intestate in whom the land was vested. R.S.O. 1937, c. 157, s. 3.

4.—(1) Where any person interested in the land has not been heard of for three years or upwards and it is uncertain whether such person is living or dead, the court upon the application of any one interested in the land may appoint a guardian to take charge of the interest of such person and of those who, in the event of his being dead, are entitled to his share or interest in the land.

(2) The guardian shall, in the proceedings, represent the absent person and those who, if he is dead, are entitled to his share or interest in the land, and whether they or any of them are infants or otherwise under disability, and his acts in relation to such share or interest shall be binding on

the absent person and all others claiming or entitled to claim under or through him, and shall be as valid as if done by him or them.

Power of the court to deal with the estate.

(3) The court upon proof of such absence of such person as affords reasonable ground for believing such person to be dead, upon the application of the guardian, or any one interested in the estate represented by the guardian, may deal with the estate or interest of such person, or the proceeds thereof, and may order payment of the proceeds, or the income or produce thereof, to the person who, in the event of the absent person being dead, appears to be entitled to the same. R.S.O. 1937, c. 157, s. 4.

Sales, including estates in dower or by the curtesy or for life.

5.—(1) In any action or proceeding for partition or administration, or in any action or proceeding in which a sale of land in lieu of partition is ordered, and in which the estate of any tenant in dower or tenant by the curtesy or for life is established, if the person entitled to the estate is a party, the court shall determine whether the estate ought to be exempted from the sale or whether the same should be sold, and in making such determination regard shall be had to the interests of all the parties.

What to pass to purchaser.

(2) If a sale is ordered including such estate, all the estate and interest of every such tenant shall pass thereby, and no conveyance or release to the purchaser shall be required from such tenant, and the purchaser, his heirs and assigns, shall hold the premises freed and discharged from all claims by virtue of the estate or interest of any such tenant, whether the same be to any undivided share or to the whole or any part of the premises sold.

Compensation to owners of particular estates.

(3) The court may direct the payment of such sum in gross out of the purchase money to the person entitled to dower or estate by the curtesy or for life, as may be deemed, upon the principles applicable to life annuities, a reasonable satisfaction for such estate; or may direct the payment to the person entitled of an annual sum or of the income or interest to be derived from the purchase money or any part thereof, as may seem just, and for that purpose may make such order for the investment or other disposition of the purchase money or any part thereof as may be necessary. R.S.O. 1937, c. 157, s. 5.

Determining value of claim to inchoate right of dower.

6. Where a married woman is a party to such action or proceeding in respect to an inchoate right of dower, the court shall, in case of sale, determine the value of such right according to the principles applicable to deferred annuities and survivorships, and shall order the amount of such value to be

paid; or shall order the payment to such married woman of an annual sum, or of such income or interest as is provided in section 5 and the payment shall be a bar to any right or claim of dower. R.S.O. 1937, c. 157, s. 6.

7. A partition or sale made by the court shall be as effectual ^{Effect upon persons under a disability.} for the apportioning or conveying away of the estate or interest of any married woman, infant or mentally incompetent person, party to the proceedings by which the sale or partition is made or declared, as of a person competent to act for himself. R.S.O. 1937, c. 157, s. 7.

CHAPTER 270

The Partnerships Act

1.—(1) In this Act,

Interpre-
tation.

(a) "business" includes every trade, occupation and profession;

(b) "court" includes every court and judge having jurisdiction in the case.

(2) A person is deemed to be "insolvent" within the meaning of this Act if he is adjudged a bankrupt under the *Bankruptcy Act* (Canada), or if he makes an assignment for the general benefit of his creditors and "insolvency" has a meaning corresponding with "insolvent". R.S.O. 1937, c. 187, s. 1.

"Insolvent" and "in-solvency."
R.S.C. 1927,
c. 11.

NATURE OF PARTNERSHIP

2. Partnership is the relation which subsists between persons carrying on a business in common with a view of profit, but the relation between the members of any company or association which is incorporated by or under the authority of any special or general Act in force in Ontario or elsewhere, or registered as a corporation under any such Act, is not a partnership within the meaning of this Act. R.S.O. 1937, c. 187, s. 2.

Definition of
partnership.

3. In determining whether a partnership does or does not exist, regard shall be had to the following rules:

Rules for
determining
existence of
partnership.

1. Joint tenancy, tenancy in common, joint property, common property, or part ownership does not of itself create a partnership as to anything so held or owned, whether the tenants or owners do or do not share any profits made by the use thereof.

2. The sharing of gross returns does not of itself create a partnership, whether the persons sharing such returns have or have not a joint or common right or interest in any property from which or from the use of which the returns are derived.

3. The receipt by a person of a share of the profits of a business is *prima facie* evidence that he is a partner in the business, but the receipt of such a share or payment, con-

tingent on or varying with the profits of a business, does not of itself make him a partner in the business, and in particular,

- (a) the receipt by a person of a debt or other liquidated amount by instalments or otherwise out of the accruing profits of a business does not of itself make him a partner in the business or liable as such;
- (b) a contract for the remuneration of a servant or agent or a person engaged in a business by a share of the profits of the business does not of itself make the servant or agent a partner in the business or liable as such;
- (c) a person being the widow or child of a deceased partner, and receiving by way of annuity a portion of the profits made in the business in which the deceased person was a partner, is not by reason only of such receipt a partner in the business or liable as such;
- (d) the advance of money by way of loan to a person engaged or about to engage in any business on a contract with that person that the lender is to receive a rate of interest varying with the profits, or is to receive a share of the profits arising from carrying on the business, does not of itself make the lender a partner with the person or persons carrying on the business or liable as such, provided that the contract is in writing and signed by or on behalf of all parties thereto;
- (e) a person receiving by way of annuity or otherwise a portion of the profits of a business in consideration of the sale by him of the goodwill of the business, is not by reason only of such receipt a partner in the business or liable as such. R.S.O. 1937, c. 187, s. 3.

Insolvency.

4. In the event of any person to whom money has been advanced by way of loan upon such a contract as is mentioned in section 3, or of any buyer of the goodwill in consideration of a share of the profits of the business becoming insolvent or entering into an arrangement to pay his creditors less than one hundred cents in the dollar or dying in insolvent circumstances, the lender of the loan shall not be entitled to recover anything in respect of his loan, and the seller of the goodwill shall not be entitled to recover anything in respect of the share of profits contracted for until the claims of the other creditors of the borrower or buyer, for valuable con-

sideration in money or money's worth, are satisfied. R.S.O. 1937, c. 187, s. 4.

5. Persons who have entered into partnership with one another are, for the purposes of this Act, called collectively a firm, and the name under which their business is carried on is called the firm name. R.S.O. 1937, c. 187, s. 5.

Meaning of "firm".

RELATION OF PARTNERS TO PERSONS DEALING WITH THEM

6. Every partner is an agent of the firm and his other partners for the purpose of the business of the partnership, and the acts of every partner who does any act for carrying on in the usual way business of the kind carried on by the firm of which he is a member, bind the firm and his partners unless the partner so acting has in fact no authority to act for the firm in the particular matter and the person with whom he is dealing either knows that he has no authority, or does not know or believe him to be a partner. R.S.O. 1937, c. 187, s. 6.

Power of partner to bind firm.

7. An act or instrument relating to the business of the firm and done or executed in the firm name, or in any other manner showing an intention to bind the firm by any person thereto authorized, whether a partner or not, is binding on the firm and all the partners, provided that this section does not affect any general rule of law relating to the execution of deeds or negotiable instruments. R.S.O. 1937, c. 187, s. 7.

Partners bound by acts on behalf of firm.

8. Where one partner pledges the credit of the firm for a purpose apparently not connected with the firm's ordinary course of business, the firm is not bound, unless he is in fact specially authorized by the other partners, but this section does not affect any personal liability incurred by an individual partner. R.S.O. 1937, c. 187, s. 8.

Partner using credit of firm for private purposes.

9. If it is agreed between the partners to restrict the power of any one or more of them to bind the firm, no act done in contravention of the agreement is binding on the firm with respect to persons having notice of the agreement. R.S.O. 1937, c. 187, s. 9.

Effect of notice that firm not bound by act of partner.

10. Every partner in a firm is liable jointly with the other partners for all debts and obligations of the firm incurred while he is a partner, and after his death his estate is also severally liable in a due course of administration for such debts and obligations so far as they remain unsatisfied, but subject to the prior payment of his separate debts. R.S.O. 1937, c. 187, s. 10.

Liability of partners.

Liability of the firm for wrongs.

11. Where by any wrongful act or omission of any partner acting in the ordinary course of the business of the firm, or with the authority of his co-partners, loss or injury is caused to any person not being a partner of the firm, or any penalty is incurred, the firm is liable therefor to the same extent as the partner so acting or omitting to act. R.S.O. 1937, c. 187, s. 11.

Misapplication of money or property received for or in custody of the firm.

12. In the following cases, namely,

- (a) where one partner, acting within the scope of his apparent authority, receives the money or property of a third person and misapplies it; and
- (b) where a firm in the course of its business receives money or property of a third person, and the money or property so received is misapplied by one or more of the partners while it is in the custody of the firm,

the firm is liable to make good the loss. R.S.O. 1937, c. 187, s. 12.

Liability for wrongs joint and several.

13. Every partner is liable jointly with his co-partners and also severally for everything for which the firm, while he is a partner therein, becomes liable under section 11 or 12. R.S.O. 1937, c. 187, s. 13.

Improper employment of trust property for partnership purposes.

14. If a partner, being a trustee, improperly employs trust property in the business or on the account of the partnership, no other partner is liable for the trust property to the persons beneficially interested therein, but

- (a) this section does not affect any liability incurred by any partner by reason of his having notice of a breach of trust; and
- (b) nothing in this section prevents trust money from being followed and recovered from the firm if still in its possession or under its control. R.S.O. 1937, c. 187, s. 14.

Persons liable by "holding out".

15.—(1) Every person, who by words spoken or written or by conduct represents himself or who knowingly suffers himself to be represented as a partner in a particular firm, is liable as a partner to any person who has on the faith of any such representation given credit to the firm, whether the representation has or has not been made or communicated to the persons so giving credit by or with the knowledge of the apparent partner making the representation or suffering it to be made.

Continuing business after death of partner.

(2) Where after a partner's death the partnership business is continued in the old firm-name, the continued use of that

name or of the deceased partner's name as part thereof does not of itself make his executor's or administrator's estate or effects liable for any partnership debts contracted after his death. R.S.O. 1937, c. 187, s. 15.

16. An admission or representation made by any partner concerning the partnership affairs and in the ordinary course of its business is evidence against the firm. R.S.O. 1937, c. 187, s. 16.

Admissions and representations of partners.

17. Notice to any partner who habitually acts in the partnership business of any matter relating to partnership affairs operates as notice to the firm, except in the case of a fraud on the firm committed by or with the consent of that partner. R.S.O. 1937, c. 187, s. 17.

Notice to acting partner to be notice to the firm.

18.—(1) A person who is admitted as a partner into an existing firm does not thereby become liable to the creditors of the firm for anything done before he became a partner.

Liability commences with admission to firm.

(2) A partner who retires from a firm does not thereby cease to be liable for partnership debts or obligations incurred before his retirement.

Liability for debts, etc., incurred before retirement.

(3) A retiring partner may be discharged from any existing liabilities by an agreement to that effect between himself and the members of the firm as newly constituted and the creditors, and this agreement may be either express or inferred as a fact from the course of dealing between the creditors and the firm as newly constituted. R.S.O. 1937, c. 187, s. 18.

Agreement discharging retiring partner.

19. A continuing guaranty or cautionary obligation given either to a firm or to a third person in respect of the transactions of a firm is, in the absence of agreement to the contrary, revoked as to future transactions by any change in the constitution of the firm to which, or of the firm in respect of the transaction of which the guaranty or obligation was given. R.S.O. 1937, c. 187, s. 19.

Revocation of continuing guaranty by change in firm.

RELATION OF PARTNERS TO ONE ANOTHER

20. The mutual rights and duties of partners, whether ascertained by agreement or defined by this Act, may be varied by the consent of all the partners, and such consent may be either expressed or inferred from a course of dealing. R.S.O. 1937, c. 187, s. 20.

Variation by consent of terms of partnership.

21.—(1) All property and rights and interests in property originally brought into the partnership stock or acquired,

Partnership property.

whether by purchase or otherwise, on account of the firm, or for the purposes and in the course of the partnership business, are called in this Act "partnership property", and must be held and applied by the partners exclusively for the purposes of the partnership and in accordance with the partnership agreement.

Devolution
of land.

(2) The legal estate or interest in any land which belongs to the partnership shall devolve according to the nature and tenure thereof and the general rules of law thereto applicable, but in trust, so far as necessary, for the persons beneficially interested in the land under this section.

Co-owners
of land.

(3) Where co-owners of an estate or interest in any land, not being itself partnership property, are partners as to profits made by the use of that land or estate, and purchase other land or estate out of the profits to be used in like manner, the land or estate so purchased belongs to them, in the absence of an agreement to the contrary, not as partners, but as co-owners for the same respective estates and interests as are held by them in the land or estate first mentioned at the date of purchase. R.S.O. 1937, c. 187, s. 21.

Property
bought with
partnership
money.

22. Unless the contrary intention appears, property bought with money belonging to the firm is deemed to have been bought on the account of the firm. R.S.O. 1937, c. 187, s. 22.

Conversion
of land
bought with
partnership
money into
personality.

23. Where land or any heritable interest therein becomes partnership property, unless the contrary intention appears, it is to be treated as between the partners, including the representatives of a deceased partner, and also as between the heirs of a deceased partner and his executors or administrators as personal or movable and not real or heritable estate. R.S.O. 1937, c. 187, s. 23.

Rules as to
interests
and duties
of partners.

24. The interests of partners in the partnership property and their rights and duties in relation to the partnership shall be determined, subject to any agreement express or implied between the partners, by the following rules:

1. All the partners are entitled to share equally in the capital and profits of the business, and must contribute equally towards the losses, whether of capital or otherwise, sustained by the firm.

2. The firm must indemnify every partner in respect of payments made and personal liabilities incurred by him,

(a) in the ordinary and proper conduct of the business of the firm; or

(b) in or about anything necessarily done for the preservation of the business or property of the firm.

3. A partner making, for the purpose of the partnership, any actual payment or advance beyond the amount of capital which he has agreed to subscribe, is entitled to interest at the rate of five per cent per annum from the date of the payment or advance.

4. A partner is not entitled, before the ascertainment of profits, to interest on the capital subscribed by him.

5. Every partner may take part in the management of the partnership business.

6. No partner shall be entitled to remuneration for acting in the partnership business.

7. No person may be introduced as a partner without the consent of all existing partners.

8. Any difference arising as to ordinary matters connected with the partnership business may be decided by a majority of the partners, but no change may be made in the nature of the partnership business without the consent of all existing partners.

9. The partnership books are to be kept at the place of business of the partnership, or the principal place, if there is more than one, and every partner may, when he thinks fit, have access to and inspect and copy any of them. R.S.O. 1937, c. 187, s. 24.

25. No majority of the partners can expel any partner unless a power to do so has been conferred by express agreement between the partners. R.S.O. 1937, c. 187, s. 25. Expulsion of partner.

26.—(1) Where no fixed term is agreed upon for the duration of the partnership, any partner may determine the partnership at any time on giving notice of his intention so to do to all the other partners. Retirement from partnership at will.

(2) Where the partnership was originally constituted by deed, a notice in writing, signed by the partner giving it, is sufficient for that purpose. R.S.O. 1937, c. 187, s. 26. Notice of retirement.

27.—(1) Where a partnership entered into for a fixed term is continued after the term has expired and without any express new agreement, the rights and duties of the partners remain the same as they were at the expiration of the term, so far as is consistent with the incidents of a partnership at will. Presumption of continuance after expiry of term.

Arises from
continuance
of business.

(2) A continuance of the business by the partners or such of them as habitually acted therein during the term without any settlement or liquidation of the partnership affairs, is presumed to be a continuance of the partnership. R.S.O. 1937, c. 187, s. 27.

Duty as to
rendering
accounts.

28. Partners are bound to render true accounts and full information of all things affecting the partnership to any partner or his legal representatives. R.S.O. 1937, c. 187, s. 28.

Accounta-
bility for
private
profits.

29.—(1) Every partner must account to the firm for any benefit derived by him without the consent of the other partners from any transaction concerning the partnership or from any use by him of the partnership property name or business connection.

Extends to
survivors
and repre-
sentatives of
deceased.

(2) This section applies also to transactions undertaken after a partnership has been dissolved by the death of a partner and before the affairs thereof have been completely wound up, either by any surviving partner or by the representatives of the deceased partner. R.S.O. 1937, c. 187, s. 29.

Duty of
partner not
to compete
with firm.

30. If a partner, without the consent of the other partners, carries on any business of the same nature as and competing with that of the firm, he must account for and pay over to the firm all profits made by him in that business. R.S.O. 1937, c. 187, s. 30.

Rights of
assignee of
share in
partnership.

31.—(1) An assignment by any partner of his share in the partnership, either absolute or by way of mortgage or redeemable charge, does not, as against the other partners, entitle the assignee, during the continuance of the partnership, to interfere in the management or administration of the partnership business or affairs, or to require any accounts of the partnership transactions, or to inspect the partnership books, but entitles the assignee only to receive the share of profits to which the assigning partner would otherwise be entitled, and the assignee must accept the account of profits agreed to by the partners.

On dissolu-
tion.

(2) In the case of a dissolution of the partnership, whether as respects all the partners or as respects the assigning partner, the assignee is entitled to receive the share of the partnership assets to which the assigning partner is entitled as between himself and the other partners, and, for the purpose of ascertaining that share, to an account as from the date of the dissolution. R.S.O. 1937, c. 187, s. 31.

DISSOLUTION OF PARTNERSHIP

32. Subject to any agreement between the partners, a partnership is dissolved, Dissolution by expiry of term or notice.

- (a) if entered into for a fixed term, by the expiration of that term;
- (b) if entered into for a single adventure or undertaking, by the termination of that adventure or undertaking;
- (c) if entered into for an undefined time, by any partner giving notice to the other or others of his intention to dissolve the partnership, in which case the partnership is dissolved as from the date mentioned in the notice as the date of dissolution, or, if no date is so mentioned, as from the date of the communication of the notice. R.S.O. 1937, c. 187, s. 32.

33.—(1) Subject to any agreement between the partners, every partnership is dissolved as regards all the partners by the death or insolvency of any partner. Dissolution by death or insolvency of partner.

(2) A partnership may, at the option of the other partners, be dissolved if any partner suffers his share of the partnership property to be charged under this Act for his separate debt. Where partner's share charged for separate debt. R.S.O. 1937, c. 187, s. 33.

34. A partnership is in every case dissolved by the happening of any event which makes it unlawful for the business of the firm to be carried on or for the members of the firm to carry it on in partnership. By illegality of business. R.S.O. 1937, c. 187, s. 34.

35. On application by a partner, the court may order a dissolution of the partnership, By the court.

- (a) when a partner is found mentally incompetent by inquisition or is shown to the satisfaction of the court to be of permanently unsound mind, in either of which cases the application may be made as well on behalf of that partner by his committee or next friend or person having title to intervene as by any other partner;
- (b) when a partner, other than the partner suing, becomes in any other way permanently incapable of performing his part of the partnership contract;
- (c) when a partner, other than the partner suing, has been guilty of such conduct as, in the opinion of the court, regard being had to the nature of the business,

is calculated to prejudicially affect the carrying on of the business;

- (d) when a partner, other than the partner suing, wilfully or persistently commits a breach of the partnership agreement, or otherwise so conducts himself in matters relating to the partnership business that it is not reasonably practicable for the other partner or partners to carry on the business in partnership with him;
- (e) when the business of the partnership can only be carried on at a loss; or
- (f) when in any case circumstances have arisen which, in the opinion of the court, render it just and equitable that the partnership be dissolved. R.S.O. 1937, c. 187, s. 35.

Rights of persons dealing with firm against apparent members.

36.—(1) Where a person deals with a firm after a change in its constitution, he is entitled to treat all apparent members of the old firm as still being members of the firm until he has notice of the change.

Notice.

(2) An advertisement in *The Ontario Gazette* shall be notice as to persons who had not dealings with the firm before the dissolution or change so advertised.

Estate of dead or insolvent partner, how far liable.

(3) The estate of a partner who dies, or who becomes insolvent, or of a partner who, not having been known to the person dealing with the firm to be a partner, retires from the firm, is not liable for partnership debts contracted after the date of the death, insolvency, or retirement. R.S.O. 1937, c. 187, s. 36.

Right to give notice of dissolution.

37. On the dissolution of a partnership or retirement of a partner, any partner may publicly give notice of the same, and may require the other partner or partners to concur for that purpose in all necessary or proper acts, if any, which cannot be done without his or their concurrence. R.S.O. 1937, c. 187, s. 37.

Continuing authority of partners for purposes of winding up.

38. After the dissolution of a partnership, the authority of each partner to bind the firm and the other rights and obligations of the partners continue notwithstanding the dissolution so far as may be necessary to wind up the affairs of the partnership and to complete transactions begun but unfinished at the time of the dissolution, but not otherwise; provided that the firm is in no case bound by the acts of a partner who has become insolvent; but this proviso does not affect the liability of any person who has, after the insolvency, represented himself or knowingly suffered himself to be represented as a partner of the insolvent. R.S.O. 1937, c. 187, s. 38.

39. On the dissolution of a partnership every partner is entitled, as against the other partners in the firm and all persons claiming through them in respect of their interests as partners, to have the property of the partnership applied in payment of the debts and liabilities of the firm and to have the surplus assets after such payment applied in payment of what may be due to the partners respectively after deducting what may be due from them as partners to the firm, and for that purpose any partner or his representative may, on the termination of the partnership, apply to the court to wind up the business and affairs of the firm. R.S.O. 1937, c. 187, s. 39.

Rights of partners as to application of partnership property.

40. Where one partner paid a premium to another on entering into a partnership for a fixed term and the partnership is dissolved before the expiration of that term otherwise than by the death of a partner, the court may order the repayment of the premium, or of such part thereof as it thinks just, having regard to the terms of the partnership contract and to the length of time during which the partnership has continued, unless,

Apportionment of premium on premature dissolution.

- (a) the dissolution is, in the judgment of the court, wholly or chiefly due to the misconduct of the partner who paid the premium; or
- (b) the partnership has been dissolved by an agreement containing no provision for a return of any part of the premium. R.S.O. 1937, c. 187, s. 40.

41. Where a partnership contract is rescinded on the ground of the fraud or misrepresentation of one of the parties thereto, the party entitled to rescind is, without prejudice to any other right, entitled,

Rights where partnership dissolved for fraud or misrepresentations.

- (a) to a lien on, or right of retention of, the surplus of the partnership assets, after satisfying the partnership liabilities, for any sum of money paid by him for the purchase of a share in the partnership and for any capital contributed by him; and
- (b) to stand in the place of the creditors of the firm for any payments made by him in respect of the partnership liabilities; and
- (c) to be indemnified by the person guilty of the fraud or making the representation against all the debts and liabilities of the firm. R.S.O. 1937, c. 187, s. 41.

42.—(1) Where any member of a firm dies or otherwise ceases to be a partner and the surviving or continuing

Right of out-going partner as to share in profits after dissolution.

partners carry on the business of the firm with its capital or assets without any final settlement of accounts as between the firm and the outgoing partner or his estate, then, in the absence of any agreement to the contrary, the outgoing partner or his estate is entitled, at the option of himself or his representatives, to such share of the profits made since the dissolution as the court may find to be attributable to the use of his share of the partnership assets, or to interest at the rate of five per cent per annum on the amount of his share of the partnership assets.

Proviso as to option of remaining partners to purchase share.

(2) Where by the partnership contract an option is given to surviving or continuing partners to purchase the interest of a deceased or outgoing partner and that option is duly exercised, the estate of the deceased partner, or the outgoing partner or his estate, as the case may be, is not entitled to any further or other share of profits, but if any partner, assuming to act in exercise of the option, does not in all material respects comply with the terms thereof, he is liable to account under the foregoing provisions of this section. R.S.O. 1937, c. 187, s. 42.

Retiring or deceased partner's share to be a debt.

43. Subject to any agreement between the partners, the amount due from surviving or continuing partners to an outgoing partner or the representatives of a deceased partner in respect of the outgoing or deceased partner's share, is a debt accruing at the date of the dissolution or death. R.S.O. 1937, c. 187, s. 43.

Rules for distribution of assets on final settlement of accounts.

44. In settling accounts between the partners after a dissolution of partnership, the following rules shall, subject to any agreement, be observed:

1. Losses, including losses and deficiencies of capital, are to be paid first out of profits, next out of capital, and lastly, if necessary, by the partners individually in the proportion in which they were entitled to share profits.

2. The assets of the firm, including the sums, if any, contributed by the partners to make up losses or deficiencies of capital, are to be applied in the following manner and order,

- (a) in paying the debts and liabilities of the firm to persons who are not partners therein;
- (b) in paying to each partner rateably what is due from the firm to him for advances as distinguished from capital;
- (c) in paying to each partner rateably what is due from the firm to him in respect to capital;

- (d) the ultimate residue, if any, is to be divided among the partners in the proportion in which profits are divisible. R.S.O. 1937, c. 187, s. 44.

45. The rules of equity and of common law applicable to partnership shall continue in force, except so far as they are inconsistent with the express provisions of this Act. R.S.O. 1937, c. 187, s. 45. Saving as to rules of equity and common law.

46. This Act is to be read and construed as subject to *The Limited Partnerships Act* and *The Partnerships Registration Act*. R.S.O. 1937, c. 187, s. 46. Act to be subject to Rev. Stat. cc. 208, 271.

CHAPTER 271

The Partnerships Registration Act

1.—(1) Persons associated in partnership for trading, manufacturing or mining purposes shall cause to be filed with the registrar of the registry division in which they carry on or intend to carry on business a declaration in writing (Form 1) signed by all the members of the partnership.

Persons in partnership to deliver a declaration to the registrar.

(2) When at the time of making the declaration any member is absent from the place where the partnership carries on or intends to carry on business, the declaration shall be signed by the members present in their own names and also for any absent member, under his special authority to that effect, and such special authority shall be annexed to the declaration and shall be filed with the registrar at the same time as the declaration. R.S.O. 1937, c. 189, s. 1.

Absent parties.

2. The declaration shall state,

Requisites of declaration.

- (a) the names, surnames, additions and residences of every partner;
 - (b) the name under which they carry on or intend to carry on business;
 - (c) the time during which the partnership has subsisted;
 - (d) that the persons therein named are the only members of the partnership; and
 - (e) which of the partners are of the full age of 21 years and, where any of the partners are under the full age of 21 years, the date of birth of each of such partners.
- 1941, c. 41, s. 1.

3. Every declaration shall be filed within 60 days next after the formation of the partnership or, in the case of a declaration under section 8, within 60 days of the time when the name or designation is first used, provided that a judge of a county or district court may extend the period for filing upon being satisfied by affidavit or affidavits, which shall be filed with the declaration, that the failure to register arose from misadventure, ignorance or some other cause which constitutes a reasonable excuse and that the partners or other declarant have acted and are acting in good faith. 1942, c. 34, s. 26.

When declaration to be filed.

Declaration where change in partnership.

4.—(1) A similar declaration shall in like manner be filed whenever any change takes place in the membership of the partnership or in the name under which it carries on business, and every such declaration shall state the change in the membership of the partnership or in its name.

When to be filed.

(2) The declaration shall be filed within 60 days after the change takes place. R.S.O. 1937, c. 189, s. 4.

Effect of allegations in the declaration.

5. The statements made in any declaration shall not be controvertible by any person who has signed the same nor as against any person not being a member of the partnership by any person who has signed the same, or who was really a member of the partnership therein mentioned at the time the declaration was made. R.S.O. 1937, c. 189, s. 5.

Declaration of dissolution of partnership.

6. Upon the dissolution of a partnership any or all of the persons who composed the partnership may sign a declaration (Form 2) certifying the dissolution of the partnership. R.S.O. 1937, c. 189, s. 6.

Position of persons signing declaration.

7.—(1) Until a new declaration is made and filed by him, or by his partners or any of them, no person who signed the declaration filed shall be deemed to have ceased to be a partner.

Liability of partners falling to make declaration.

(2) Nothing herein shall exempt from liability any person who, being a partner, fails to make and file the prescribed declaration, and such person may, notwithstanding such omission, be sued jointly with the partners mentioned in the declaration, or they may be sued alone, and, if judgment is recovered against them, he may be sued on the original cause of action upon which the judgment was recovered. R.S.O. 1937, c. 189, s. 7.

Where business name indicates plurality.

8.—(1) Every person engaged in business for trading, manufacturing or mining purposes who is not associated in partnership with any other person but uses as his business style,

(a) some name or designation other than his own name; or

(b) his own name with the addition of the expression "and company" or some other expression indicating a plurality of members in the firm,

shall sign a declaration and file it with the registrar of the registry division in which he carries on or intends to carry on business. 1950, c. 51, s. 1.

Requisites of declaration.

(2) The declaration shall state,

(a) the name, surname, addition and residence of the person making the declaration;

- (b) the name or designation under which he carries on or intends to carry on business, and the date when the name or designation was first used by him;
- (c) that no other person is associated with him in partnership; and
- (d) that he is of the full age of 21 years or the date of his birth if he is under the age of 21 years. 1941, c. 41, s. 2; 1947, c. 101, s. 15.

9.—(1) No partnership in respect of which a declaration has not been filed as required by this Act and no member thereof shall be capable of maintaining any action or other proceeding in any court in Ontario in respect of any contract made in connection with the business carried on by the partnership. Failure to file declaration.

(2) No person who has failed to file a declaration as required by section 8 shall be capable of maintaining any action or other proceeding in any court in Ontario in respect of any contract made in connection with the business in respect of which a declaration is required to be filed. 1941, c. 41, s. 3, *part*. Idem.

10. Every person who fails to comply with any of the provisions of this Act or who knowingly makes any false statement in any declaration signed or filed by him under this Act shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$10 and not more than \$100. 1941, c. 41, s. 3, *part*. Penalty.

11.—(1) The registrar shall enter the declarations, in the order in which they are received, in a book to be kept by him for that purpose, and such book shall be open to the public for inspection without charge during office hours. R.S.O. 1937, c. 189, s. 10 (1). Registrar to record declaration.

(2) The registrar, for filing and entering a declaration, shall be entitled to receive from the person filing the declaration the following fee: Registrar's fee for filing.

If the declaration contains 200 words or less—\$1;

If the declaration contains more than 200 words—\$1 and for each 100 words after the first 200—10 cents.
R.S.O. 1937, c. 189, s. 10 (2); 1947, c. 102, s. 6 (1).

(3) The registrar shall keep two alphabetical index books of all declarations filed with him. Indexes.

(4) In one of such books, herein called the "Firm Index", the registrar shall enter in alphabetical order the names of Form of "Firm Index".

the firms in respect of which declarations have been filed with him, and shall place opposite each entry the names of the persons composing the firm, and the date of the receipt by him of the declaration, in the manner shown in Form 3.

Form of
"Individual
Index".

(5) In the second of such books, herein called the "Individual Index", the registrar shall enter in alphabetical order the names of the members of each firm, and shall place opposite the entry the name of the firm of which each person is a member, and the date of the receipt of the declaration in the manner shown in Form 4. R.S.O. 1937, c. 189, s. 10 (3-5).

Registrar's
fees for
certain
services.

(6) The registrar shall be entitled to the following fees for searches:

For searching in Firm Index—each firm, 25 cents;
For searching in Individual Index—each name, 10 cents;
For each certificate when required—25 cents;
For each certificate on a duplicate when required—50 cents.

R.S.O. 1937, c. 189, s. 10 (6); 1947, c. 102, s. 6 (2).

Who to
furnish
registry
books.

12. The books required for the purposes of this Act shall be furnished by the treasurer of the municipality whose duty it is to furnish registry books, or in case of his default, by the registrar in the same manner as other registry books. R.S.O. 1937, c. 189, s. 11.

Butter or
cheese manu-
facturing
associations
excepted.

13. This Act shall not apply to associations of individuals formed for the manufacture of butter or cheese, where such individuals contribute produce from their dairies for that purpose. R.S.O. 1937, c. 189, s. 12.

Rights of
partners
inter se.

14. Nothing in this Act shall affect the rights of partners with regard to each other. R.S.O. 1937, c. 189, s. 13.

FORM 1

(Section 1)

DECLARATION OF PARTNERSHIP

County (or District) of.....

We,....., of.....in.....,.....(occupation)
and.....of.....in.....
.....(occupation), hereby certify.....

1. That we have carried on and intend to carry on (or we intend to carry on) trade and business as.....at.....in partnership, under the name of.....

2. That the said partnership has subsisted since the..... day of....., 19.....

3. That we are and have been since the said day the only members of the said partnership.

4. That the said.....are of the full age of 21 years.

(Where any of the partners are under the age of 21 years, add)

5. That the said.....was born on the.....day of....., 19.....

Witness our hands at..... this.....day of....., 19.....

A. B.

C. D.

R.S.O. 1937, c. 189, Form 1; 1941, c. 41, s. 4; 1950, c. 51, s. 2.

FORM 2

(Section 6)

DECLARATION OF DISSOLUTION OF PARTNERSHIP

County (or District) of.....

I,, formerly a member of the firm carrying on business as....., at....., in the.....of....., under the name of.....do hereby certify that the said partnership was on the.....day of....., 19....., dissolved.

Witness my hand, at....., the.....day of....., 19.....

A. B.

R.S.O. 1937, c. 189, Form 2.

FORM 3
(Section 11)
FIRM INDEX

NAME OF FIRM	NAMES OF PERSONS COMPOSING THE FIRM	DATE OF FILING DECLARATION
Abbott, Black & Co.....	George Abbott, John Black, Edward Cook.....	10th February, 19....
Bernard, Green & Jones...	John Bernard, Edward Green, John Jones.....	12th February, 19....
Cook (Thos.) & Co.....	Thomas Cook, James Wilson.....	14th February, 19....
Dadson, William.....	William Dadson, Thos. Jones, Robert Watson, William Wilberforce, Jas. Johnson.....	14th February, 19....
Dick & Co.....	Richard Dick.....	15th May, 19....
Dow (Wm.) & Sons.....	William Dow.....	19th May, 19....

R.S.O. 1937, c. 189, Form 3.

FORM 4
(Section 11)
INDIVIDUAL INDEX

NAME OF INDIVIDUAL	NAME OF FIRM OF WHICH A MEMBER	DATE OF FILING DECLARATION
Abbott, George.....	Abbott, Black & Co.....	10th February, 19....
Black, John.....	Abbott, Black & Co.....	10th February, 19....
Bernard, John.....	Bernard, Green & Jones.....	12th February, 19....
Cook, Edward.....	Abbott, Black & Co.....	10th February, 19....
Cook, Thomas.....	Thomas Cook & Co.....	14th February, 19....
Dadson, William.....	William Dadson.....	14th February, 19....
Dick, Richard.....	Dick & Co.....	15th May, 19....
Dow, William.....	Wm. Dow & Sons.....	19th May, 19....

R.S.O. 1937, c. 189, Form 4.

CHAPTER 272

The Pawnbrokers Act

1.—(1) In this Act,

Interpreta-
tion.

- (a) “municipality” does not include county;
- (b) “pawnbroker” means a person who exercises the trade of receiving or taking by way of pawn or pledge any goods for the repayment of money lent thereon;
- (c) “pawner” means a person delivering an article for pawn to a pawnbroker;
- (d) “pawnticket” means the note or memorandum referred to in section 8;
- (e) “pledge” means an article pawned with a pawnbroker;
- (f) “shop” includes dwelling-house and warehouse or other place of business or place where business is transacted.

(2) In order to prevent evasion of the provisions of this Act, every person shall be deemed to be a pawnbroker who, Who to be deemed pawnbrokers.

- (a) keeps a shop for the purchase or sale of goods or chattels, or for taking in goods or chattels by way of security for money advanced thereon; or
- (b) purchases or receives or takes in goods or chattels and pays or advances or lends thereon any sum of money not exceeding \$50,

with or under an agreement or understanding expressed or implied or to be from the nature and character of the dealing reasonably inferred that those goods or chattels may be afterwards redeemed or repurchased on any terms, and every such transaction, payment, advance and loan shall be deemed a pawning, pledging and loan respectively under this Act. R.S.O. 1937, c. 244, s. 1.

2.—(1) No person shall exercise the trade of a pawnbroker unless he obtains a licence therefor under the hand of the treasurer of the municipality in which he carries on or proposes to carry on such trade, nor unless he obtains a renewal of the same annually, but no licence shall be issued or renewed Licences.

unless under the authority of a by-law of the council of the municipality.

Refusal to
grant or
renew.

(2) A licence or renewal may be refused without any cause assigned.

Fee for
licence.

(3) The sum of \$60 shall be paid for every licence or renewal thereof to the treasurer for the use of the municipality, and every pawnbroker shall give to the municipality security to the satisfaction of the treasurer in the sum of \$1,000 for the due observance by him of the provisions of this Act.

Penalty for
neglect to
take out
licence.

(4) Every person exercising such trade without having obtained a licence or renewal thereof shall be guilty of an offence and liable to a penalty of \$50 for every pledge he takes. R.S.O. 1937, c. 244, s. 2.

Licence to
cover only
one shop.

3. No person shall, by virtue of one licence, keep more than one shop. R.S.O. 1937, c. 244, s. 3.

Licence to
partners.

4. Only one licence shall be necessary where two or more persons carry on trade as pawnbrokers in partnership in the same shop. R.S.O. 1937, c. 244, s. 4.

Agents, ser-
vants and
apprentices
of pawn-
brokers.

5. For the purposes of this Act anything done or omitted by the servant, apprentice or agent of a pawnbroker in the course of or in relation to the business of a pawnbroker shall be deemed to be done or omitted, as the case may be, by the pawnbroker, and anything by this Act authorized to be done by a pawnbroker may be done by his servant, apprentice or agent. R.S.O. 1937, c. 244, s. 5.

Duties of
pawnbroker,
sign to be
exhibited;

6.—(1) Every pawnbroker shall always,

(a) keep exhibited in large, legible characters on a sign over the outer door of his shop his name and the word "Pawnbroker"; and

notice of
rates.

(b) keep displayed in a conspicuous part of his shop a notice painted or printed in English in large, legible characters so as to be visible to any person pawning or redeeming pledges, showing the rate of profit authorized by law to be taken, and also the various prices of the pawntickets to be given according to the rates hereinafter mentioned, and of the expense of obtaining a copy of the pawnticket where the pawnticket has been lost, mislaid, destroyed or fraudulently obtained from the pawner.

Penalty for
non-com-
pliance.

(2) If a pawnbroker fails in any respect to comply with the requirements of this section he shall be guilty of an offence

and liable to a penalty of not more than \$40. R.S.O. 1937, c. 244, s. 6.

7.—(1) Every pawnbroker who takes a pledge in pawn whereon a sum exceeding \$1 is lent shall, before he lends the money thereon, enter in English in a fair and legible manner in a book to be kept by him for that purpose, a description of the pledge, the sum lent thereon, with the day of the month and year, and the name and a description of the pawner, and the name of the street and number of the house where he resides, and whether he is a lodger in or the keeper of such house, by using the letter "L" if a lodger, and the letter "H" if a housekeeper, and also the name and place of abode of the owner according to the information of the pawner, into all which circumstances the pawnbroker shall inquire of him before any money is lent.

Entries to be made by pawn-brokers.

(2) Where the sum lent does not exceed \$1, a similar entry shall be made in such book within four hours after the goods have been pawned.

If sum does not exceed \$1.

(3) Where more than \$2 is lent upon a pledge, the entries shall be made in respect thereof in a separate book to be kept for that purpose.

Separate book for pledges over \$2.

(4) The entries shall be numbered in the books consecutively in the order in which the pledges are pawned in the following manner: the first pledge received in pawn as No. 1, the second as No. 2, and so on until the end of the month, and in like manner in every succeeding month, and upon every pawnticket respecting such pledge, shall be written the number of entry of the pledge so entered in the book. R.S.O. 1937, c. 244, s. 7.

Entries, how to be made.

8. At the time of taking any pledge a note or memorandum, written or printed, shall be given to the pawner containing a description of the pledge and a statement of the sum lent thereon, with the day of the month and year, and the name of the pawner and the name of the street, number of the house where he resides, and whether he is a lodger in or the keeper of such house, by using the letters "L" or "H", and upon such note or memorandum, or on the back thereof, shall be written or printed the name and place of abode of the pawnbroker and the rates of interest which may lawfully be charged, which note or memorandum the pawner is required to take, and unless he takes the same the pawnbroker shall not take the pledge in pawn. R.S.O. 1937, c. 244, s. 8.

Note or memorandum (ticket) for the pawner.

9.—(1) Where the sum lent is less than \$20, the pawnbroker may take five cents for the pawnticket.

Charges for ticket if less than \$20.

If more.

(2) Where the sum lent is \$20 or more, the pawnbroker may take 10 cents for the pawnticket. R.S.O. 1937, c. 244, s. 9.

Production of ticket.

10. Except as hereinafter provided, the pawnbroker shall not be bound to re-deliver the goods until the pawnticket is produced and delivered to him. R.S.O. 1937, c. 244, s. 10.

Duplicate ticket.

11. A duplicate of the pawnticket shall be affixed to the pledge, and, where the pledge is redeemed, the pawnbroker shall write or endorse on the duplicate the profit taken by him for the pledge, and shall keep the duplicate in his custody for one year after redemption. R.S.O. 1937, c. 244, s. 11.

Penalty for pawning goods of others.

12.—(1) Any person who knowingly and designedly pawns anything being the property of another person, unless employed or authorized by the owner so to do, shall be guilty of an offence and liable to a penalty of not less than \$4 and not more than \$20, and a further penalty of a sum equal to the full value of the pledge as ascertained by the convicting justice.

Penalties, how applied.

(2) The penalties shall be applied towards making satisfaction to the person injured, and defraying the costs of the prosecution, as may be adjudged reasonable by the convicting justice. R.S.O. 1937, c. 244, s. 12.

Consequences of taking linen, wearing apparel, unfinished goods, etc.

13. A pawnbroker who knowingly takes in pawn any linen, or wearing apparel, or unfinished goods, or materials entrusted to any person to wash, scour, iron, mend, manufacture, work up, finish or make up, shall be guilty of an offence and liable to a penalty of not more than double the amount of the loan, and shall forthwith restore the pledge to the lawful owner in the presence of the convicting justice or as may be directed by him. R.S.O. 1937, c. 244, s. 13.

Search warrant. Rev. Stat., c. 379.

14.—(1) If the pawnbroker, when requested by a constable authorized by a search warrant issued under *The Summary Convictions Act* to search the shop, refuses to open the shop and permit it to be searched, the constable may break it open and search as he may think fit therein for such goods or articles, doing no wilful damage, and any pawnbroker or other person who opposes or hinders the search shall be guilty of an offence and liable to a penalty of not more than \$100.

Restoration of goods found on search.

(2) If in the search any of the goods in respect of which the warrant was issued are found and the property of the owner in the same is proved to the satisfaction of the justice, he shall cause the same to be forthwith restored to the owner. R.S.O. 1937, c. 244, s. 14.

15.—(1) Every pawnbroker shall before 10 o'clock in the forenoon of every business day report to the chief constable or to such other person as may be designated by by-law of the council of the municipality, on forms to be furnished by the municipality, a description of all pledges received by him in pawn on the next preceding business day together with the numbers of the pawntickets issued therefor and the amounts loaned. Daily report to police.

(2) Every person who contravenes this section shall be guilty of an offence and liable to a penalty of not more than \$40. R.S.O. 1937, c. 244, s. 15. Penalty.

16. The chief constable, or an officer authorized in writing by him or by a magistrate, or any member of the Ontario Provincial Police Force or the Royal Canadian Mounted Police may at all times inspect a pawnbroker's book and shall have access to all books and papers and all pledges, and when engaged in such inspection may take with him such other persons as he may deem advisable. R.S.O. 1937, c. 244, s. 16. Inspection by police.

17. Gold or silver which has been pawned shall not be melted by a pawnbroker unless specially authorized by the council of the municipality. R.S.O. 1937, c. 244, s. 17. Gold or silver not to be melted.

18. The holder for the time being of a pawnticket shall, as between the pawner and the pawnbroker, be presumed to be the person entitled to redeem the pledge, and, subject to this Act, the pawnbroker shall accordingly, on payment of the loan and profit, deliver the pledge to the person producing the pawnticket. R.S.O. 1937, c. 244, s. 18. Rights of holder of ticket.

19.—(1) Where a pledge is destroyed or damaged by or in consequence of fire, the pawnbroker shall nevertheless be liable, on application within the period during which the pledge would have been redeemable, to pay the value of the pledge after deducting the amount of the loan and profit, such value to be the amount of the loan and profit and 25 per cent on the amount of the loan. Liability of pawnbroker in case of fire.

(2) A pawnbroker shall have an insurable interest in the pledge to the extent of the value so estimated. R.S.O. 1937, c. 244, s. 19. Insurable interest of pawnbroker.

20.—(1) If within one year after a pledge has been pawned exclusive of the day on which it was pawned, the pawner or other person on his behalf, tenders to the pawnbroker the pawnticket and also the principal money borrowed and the profit according to the lawful rates, and the person who took Time for redemption; rights of pawner.

the pledge neglects or refuses, without reasonable cause, to deliver back the goods so pawned the pawner may make oath thereof before a justice of the peace, who shall summon such person before him, and shall examine on oath the parties and their witnesses touching the premises.

Tender, and
consequences
of refusal.

(2) If tender of the pawnticket with the principal sum lent, and lawful profit thereon, is proved to have been made within such time, then on payment by the pawner of the principal money and the lawful profit due thereon, or, if the pawnbroker refuses to accept thereof on tender before the justice, the justice shall, by order under his hand, direct the pledge to be forthwith delivered to the pawner, or, if it has been sold, embezzled, lost, mislaid or destroyed, shall direct the pawnbroker to make satisfaction for the value thereof to be fixed by the justice, subject to section 19, and if the pawnbroker neglects or refuses to deliver up the pledge or to make satisfaction for the value thereof the justice shall commit him to the common jail for a period not exceeding three months or until he delivers up the pledge, or makes satisfaction for the value thereof pursuant to the order. R.S.O. 1937, c. 244, s. 20.

Compensation
for
depreciation
of pledge.

21. If a person entitled and offering to redeem a pledge shows to the satisfaction of a justice of the peace that the pledge has become or has been rendered of less value than it was at the time of the pawning thereof by or through the default, neglect or wilful misbehaviour of the pawnbroker, the justice may award a reasonable satisfaction to the owner of the pledge in respect of the damage, and the amount awarded shall be deducted from the amount payable to the pawnbroker, or shall be paid by the pawnbroker, as the case requires, in such manner as the justice directs, and in case of default the pawnbroker shall be liable to the punishment mentioned in section 20. R.S.O. 1937, c. 244, s. 21.

Protection of
owners and
persons not
having
pawntickets.

22.—(1) This section shall have effect for the protection of persons entitled to redeem a pledge and pawners not having their pawntickets to produce.

Idem.

(2) Any person claiming to be entitled to redeem a pledge but not holding the pawnticket may apply to the pawnbroker for a copy of the pawnticket and a printed form of affidavit which the pawnbroker shall deliver to him.

Idem.

(3) If the claimant proves to the satisfaction of a justice of the peace his right to redeem the pledge and on or before the third day after the day on which the form of affidavit is delivered to him by the pawnbroker, exclusive of days on which the pawnbroker is prohibited from carrying on business, delivers back to the pawnbroker the affidavit duly sworn and

endorsed with a certificate of the justice that such proof has been made, the claimant shall have, as between him and the pawnbroker, all the rights and remedies which he would have had if he had produced his pawnticket.

(4) The pawnbroker shall not be bound to deliver the pledge *Idem.* to any person until the expiration of such three days.

(5) The pawnbroker shall be indemnified for delivering the *Idem.* pledge, or otherwise acting in conformity with the affidavit and certificate, unless he has notice that the affidavit is fraudulent or false in any material particular.

(6) If the money lent is under \$20, the pawnbroker may take *Idem.* for the copy and affidavit five cents, or if it is \$20 or more, he may take ten cents. R.S.O. 1937, c. 244, s. 22.

(NOTE.—*As to lawful rates see R.S.C. 1927, c. 152, ss. 3, 4.*)

23.—(1) A pledge pawned for \$2 or less if not redeemed within the year of redemption shall, at the end thereof, become and be the pawnbroker's absolute property. Pledges for \$2 or less not redeemed in time forfeited.

(2) A pledge pawned for more than \$2 shall continue redeemable until it is disposed of, as in this Act provided, although the year of redemption has expired. R.S.O. 1937, c. 244, s. 23. Pledges over \$2 redeemable until sold.

24.—(1) Where the sum lent exceeds \$2, the pledge shall be sold at public auction and not otherwise. When to be at public auction.

(2) Before such sale the articles pawned shall be exposed to public view, and an advertisement thereof containing the name and place of abode of the pawnbroker, a description of the articles separately, the month the pledge was received in pawn and the number of the pledge shall be published on two separate days in a public newspaper published in the municipality and the second advertisement shall be published at least two clear days before the first day of sale. Exposition of goods and advertisement.

(3) If the articles are not described separately in the advertisement, the pawnbroker shall incur a penalty payable to the owner of the pledge of not less than \$8 and not more than \$40. Penalty.

(4) A pawnbroker may bid for and purchase at a sale by auction made or purporting to be made under this Act a pledge pawned with him, and on such purchase he shall be deemed the absolute owner of the pledge purchased. Bidding by pawnbroker.

(5) Where a pawnbroker bids at a sale, the auctioneer shall not take the bidding in any other form than that in which he takes the biddings of other persons at the same sale, and How to be taken.

the auctioneer on knocking down any article to a pawnbroker shall forthwith declare audibly the name of the pawnbroker as purchaser.

Account of
sales to be
kept and
booked.

(6) The pawnbroker shall enter in a book to be kept for that purpose a just account of the sale, showing therein the day of the month on which the articles were pledged, the name of the pawner, the day when, and the money for which each article pledged was sold, and the name and abode of the auctioneer.

Disposal of
surplus.

(7) If the pledge is sold for more than was due thereon, the overplus, after deducting the necessary costs and charges of the sale and advertisement, shall be paid to the pawner by whom or upon whose account the pledge was pawned.

Pawner may
inspect
entries.

(8) The pawner or the person for whom the pledge was pawned or his executor, administrator or assignee shall have the right to inspect the entry made of the sale on paying five cents for the inspection.

Consequence
of refusal
to permit
inspection.

(9) If the pawnbroker refuses to permit the pawner or the person for whom the pledge was pawned or his executor, administrator or assignee, upon the production of the probate or letters of administration or the assignment, to inspect such entry, or if the pledge was sold for more than the sum entered in such book, or if the pawnbroker did not make such entry, or did not in good faith sell the pledge according to this Act, or refuses to pay the overplus on demand, in addition to any other liability, he shall be guilty of an offence and liable to a penalty of not less than \$40 and not more than \$100, and the convicting justice may award the whole or any part of the penalty to the person aggrieved. R.S.O. 1937, c. 244, s. 24.

Restrictions
upon pawn-
brokers.

25.—(1) A pawnbroker shall not,

- (a) purchase any article or receive or take any pledge in pawn from any person who appears to be under the age of 15 years, or to be intoxicated; or
- (b) purchase or take in pawn a pawnticket issued by any other pawnbroker; or
- (c) employ or permit any servant or other person under 16 years of age to take pledges in pawn; or
- (d) carry on business as a pawnbroker on Sunday, Good Friday, Christmas Day or any day appointed by the Governor-General or the Lieutenant-Governor for a general fast or thanksgiving, or on any other day before eight o'clock in the morning or after eight

o'clock in the evening, except on Saturday evening and the evenings preceding Good Friday and Christmas Day, on which evenings he may keep his shop open until ten o'clock; or

- (e) under any pretence purchase, except at public auction, any pledge while in pawn with him; or
- (f) suffer any pledge while in pawn with him to be redeemed with a view to his purchasing it; or
- (g) make any contract or agreement with any person pawning or offering to pawn any article, or with the owner thereof for the purchase, sale or disposition thereof, within the time of redemption; or
- (h) sell or otherwise dispose of any pledge pawned with him except at such time and in such manner as is authorized by this Act; or
- (i) take in pawn from any person any naval or military medal, badge, decoration or order.

(2) Every pawnbroker who contravenes this section shall be Penalty. guilty of an offence and liable to a penalty of not less than \$20 and not more than \$40. R.S.O. 1937, c. 244, s. 25.

26. When the justice is of the opinion that the production of any pawnbook, voucher, pawnticket or other document, which is or ought to be in the hands, custody or power of a pawnbroker is necessary, he shall summon him to attend with it, and the pawnbroker shall be bound to produce it in the state in which it was when the pledge was pawned, and if he neglects or refuses to attend or to produce it in its true and perfect state he shall, unless he shows good cause to the satisfaction of the justice, be guilty of an offence and liable to a penalty of not less than \$20 and not more than \$40. R.S.O. 1937, c. 244, s. 26. Pawnbroker bound to produce pawnbooks, etc.

27. No fee shall be taken by a justice of the peace for any summons or warrant granted by him under this Act, so far as the same relates to a pledge. R.S.O. 1937, c. 244, s. 27. No fee on justice's summons or warrant.

28. Unless otherwise provided, all penalties recovered under this Act shall belong to the municipality in which the offence was committed and be paid over to the treasurer thereof. R.S.O. 1937, c. 244, s. 28. Application of penalties.

29. The penalties imposed by this Act shall be recoverable under *The Summary Convictions Act*, but an information may be laid for any offence against this Act, within 12 months next after the offence was committed. R.S.O. 1937, c. 244, s. 29. Recovery of penalties. Rev. Stat., c. 379.

Act to extend to executors, administrators, etc.

30. This Act shall extend to the executor and administrator of a deceased pawnbroker, but he shall not be answerable for any penalty personally or out of his own estate unless the same was incurred by reason of his own act or neglect. R.S.O. 1937, c. 244, s. 30.

CHAPTER 273

The Penal and Reform Institutions Inspection Act

1. In this Act,Interpre-
tation.

- (a) "Department" means Department of Reform Institutions;
- (b) "Minister" means Minister of Reform Institutions;
- (c) "penal and reform institution" means a reformatory Rev. Stat., cc. 335, 17, 134, 178, 243, 188. under *The Reformatories Act*, The Andrew Mercer Ontario Reformatory under *The Andrew Mercer Reformatory Act*, an industrial refuge under *The Female Refuges Act*, an industrial farm under *The Industrial Farms Act* and a jail or lock-up under *The Municipal Act* or under *The Jails Act*, and includes any other prison, reformatory, industrial farm, jail or other institution or place for confinement or detention of prisoners and other persons charged with or convicted of any offence against the laws of Canada or Ontario, in respect to which by any general or special Act of Canada or Ontario this Act may be made applicable;
- (d) "regulations" means regulations made under this Act. R.S.O. 1937, c. 380, s. 1, *amended*.

2. The Lieutenant-Governor in Council may appoint in-
spectors of penal and reform institutions with such designa-
tions or titles as he may deem expedient. R.S.O. 1937, c. 380,
s. 3. Appoint-
ment of
inspectors.

3.—(1) Where an inspector is authorized by the Minister to
institute an inquiry into the management or affairs of any
penal and reform institution, or into any matter in connection
therewith, or into the truth of any returns made by any
officer thereof and deems that any person should give evidence
before him on oath, the inspector shall have the same power to
summon the person to attend as a witness, to enforce his atten-
dance and to compel him to produce documents and to give
evidence as any court in civil cases. R.S.O. 1937, c. 380, s. 4 (1). Special
inquiry by
inspector.

(2) An inspector appointed under any other Act may, when
authorized by the Minister, exercise the powers conferred by Powers of
inspector.

subsection 1 with respect to any penal and reform institution. 1942, c. 34, s. 29.

Regulations.

4. The Lieutenant-Governor in Council may make such regulations in respect to penal and reform institutions as may be deemed necessary for,

- (a) the powers and duties of inspectors appointed under this Act;
- (b) their inspection, superintendence, government, management, conduct, operation, maintenance, care and use;
- (c) their superintendents, officers, staffs, servants, and employees, and the powers and duties thereof;
- (d) the admission, care, treatment, maintenance, conduct, discipline, punishment, transfer and discharge of prisoners, inmates and other persons confined or detained therein;
- (e) their records, books, accounting systems, audits, reports and returns to be made and kept;
- (f) generally, all other matters in any way relating thereto. R.S.O. 1937, c. 380, s. 5.

Municipal regulations for jails.

5. No by-law, rule or regulation of a municipality relating to a jail or lock-up established or maintained by it shall have force or take effect until approved by the Minister. R.S.O. 1937, c. 380, s. 6.

Application of certain regulations. Rev. Stat., c. 188.

6. The regulations as to the inspection of penal and reform institutions and *The Jails Act* as to the construction and repair of jails shall, so far as may be, apply to court houses and lock-ups. R.S.O. 1937, c. 380, s. 7.

Limitation of actions, etc.

7. All actions and prosecutions against any person for anything done in pursuance of this Act shall be commenced within six months after the fact committed and not afterwards. R.S.O. 1937, c. 380, s. 8.

Designation of departmental officer.

8. The Minister may from time to time designate the officer or officers of the Department who, subject to his direction, shall exercise the powers and duties conferred by statute or by the Lieutenant-Governor in Council upon the Department or any officer or officers thereof or upon any officer of any other department in respect to any Act the administration of which is for the time being under the charge or assigned to the Minister and the Department. R.S.O. 1937, c. 380, s. 9.

9.—(1) Notwithstanding anything in this or any other Act, the Minister may designate one or more officers of the Department who shall control and direct all admissions to penal and reform institutions and who may, if permitted by law, from time to time remove or transfer any prisoner, inmate or other person confined or detained therein from any such institution to any other such institution.

Powers of designated officer for transfers of prisoners, patients, etc.

(2) Removals or transfers from a penal and reform institution to an institution under *The Mental Hospitals Act*, or *vice versa*, may, if permitted by law, be made in accordance with the regulations. R.S.O. 1937, c. 380, s. 10 (1, 2).

Transfers to other institutions. Rev. Stat., c. 229.

(3) Where the official in charge of a penal and reform institution reports to an officer designated under subsection 1 that any prisoner, inmate or other person confined or detained in any such institution requires hospital treatment which cannot be supplied therein, such officer shall, if otherwise permitted by law, have authority to cause the prisoner, inmate or other such person to be transferred to a public hospital for such treatment. R.S.O. 1937, c. 380, s. 10 (3), *amended*.

Transfers to public hospitals.

(4) The charges for such hospital treatment shall be paid by the prisoner, inmate or other person unless he is an indigent person in which case the charges shall be payable in the same manner as charges for indigent patients are payable under *The Public Hospitals Act*. R.S.O. 1937, c. 380, s. 10 (4).

Charges for public hospital treatment.

Rev. Stat., c. 307.

CHAPTER 274

The Personation Act

1. Where a person is charged at a polling place with having committed the offence of personation as defined by section 172 of *The Election Act*, the deputy returning officer at such place may take the information on oath of the person making the charge (Form 1), and it shall be the duty of the deputy returning officer to take the information when requested so to do by a candidate or his agent. R.S.O. 1937, c. 9, s. 1.

Information before officer at registry or polling place.
Rev. Stat., c. 112.

2. Where the information is laid before a deputy returning officer and a warrant for the arrest of the offender is issued by him under this Act, the punishment or penalty imposed by law, notwithstanding *The Election Act*, may be imposed by or recovered before two justices of the peace under *The Summary Convictions Act*. R.S.O. 1937, c. 9, s. 2.

Mode of recovering penalty.
Rev. Stat., c. 379.

3. Where the person against whom it is proposed to lay the information has not left the polling place, the deputy returning officer may, either of his own motion or at the request of any one proposing forthwith to lay any information against such person, detain him or direct his detention until an information can be laid and a warrant for his arrest issued. R.S.O. 1937, c. 9, s. 3.

When offender may be detained.

4. Where the information is laid, the deputy returning officer may on the polling day, but not afterwards, issue his warrant (Form 2) for the arrest of the person charged, in order that he may be brought before the magistrate or justices of the peace to answer the information and to be further dealt with according to law. R.S.O. 1937, c. 9, s. 4.

When warrant may be issued.

5. The warrant shall be sufficient authority for any constable, peace officer or jailer to detain such person until he is brought before the magistrate or justices of the peace. R.S.O. 1937, c. 9, s. 5.

Authority of constable, etc., under warrant.

6. Where the correct name of the person charged is unknown to the informant, it shall be sufficient in the information and other proceedings to describe the person charged as a person whose name is unknown, but who is detained by the authority of the deputy returning officer under this Act, or

Where name of person charged is unknown.

the person charged may be described in such other manner as may sufficiently identify him, but when the name of the person so charged has been ascertained, it shall be stated in any subsequent warrant or proceeding. R.S.O. 1937, c. 9, s. 6.

Authority of
certain
officers.

7. Every poll clerk shall have the authority of a constable for the purpose of carrying out the provisions of this Act, and every deputy returning officer may appoint such special constables as he deems necessary for the like purpose, and such persons shall have full power to act without taking any oath. R.S.O. 1937, c. 9, s. 7.

Form of
information
and warrant.

8. Informations and warrants may be in accordance with the forms in the schedule hereto, but it shall not be necessary that a warrant shall have a seal affixed thereto, and the omission of a seal, where a warrant purports to be sealed, shall not invalidate it. R.S.O. 1937, c. 9, s. 8.

Supply of
forms.

9. Every Crown attorney shall keep in his office a sufficient supply of printed forms of such informations and warrants, and shall upon the request of the returning officer furnish him with as many of such forms as are necessary for the use of the deputy returning officer, and every returning officer shall, before the polling day, furnish each deputy returning officer with at least 10 of each of such forms. R.S.O. 1937, c. 9, s. 9.

Allowance to
Crown
attorney for
supplying
forms.

10.—(1) For providing and furnishing the forms, the Crown attorney shall be allowed \$4 for each election for which such forms are supplied, to be paid on the production of the receipts of the officer or officers to whom they were furnished.

How
chargeable.

(2) The fees and the disbursements of the Crown attorney in obtaining the forms shall form part of the expenses of criminal justice. R.S.O. 1937, c. 9, s. 10.

Pecuniary
penalty.

11. Every person guilty of any wilful misfeasance, or any wilful act or omission in contravention of this Act, shall, in addition to any other penalty or liability to which he may be subject, forfeit to any person aggrieved by such misfeasance, act or omission, \$400. R.S.O. 1937, c. 9, s. 11.

FORM 1

(Section 1)

INFORMATION FOR PERSONATION AT A POLLING PLACE

County of..... } The information of of
 To Wit: } the..... of....., taken this
 day of....., 19....., before the
 undersigned, a Deputy Returning Officer at a
 polling place in the..... of..... for an election then being
 held of a Member of the Legislative Assembly for the Electoral District
 of.....

The informant says that he believes that.....(1)
 on this day at the said polling place did commit the offence of personation
 contrary to *The Election Act*, for that the said.....

.....(2) did apply for a ballot paper in the name of another person, that is
 to say, in the name of C. D. (3).

A.B.,
 Informant.

Taken and sworn (4) before me at the said polling place on the day
 and year above mentioned.

W.J.

NOTE.—(1) *If the name of the person charged is unknown to the informant substitute "a person whose name is unknown to the informant but who is now detained in the said polling place under my order".*

(2) *Or, "person whose name is unknown".*

(3) *Or, "having voted at the same election, did apply for a ballot paper in his own name", or "did vote more than once at the same election".*

(4) *Or, if the informant is a person who may by law affirm in civil cases then for "sworn" substitute "solemnly affirmed".*

R.S.O. 1937, c. 9, Form 1.

FORM 2

(Section 4)

WARRANT FOR PERSONATION AT POLLING PLACE

County of..... } To all or any of the constables and other
 To Wit: } peace officers in the of
 and..... of.....
 Whereas information on oath has this day
 been taken before the undersigned, a deputy returning officer at a polling
 place in the of..... for an
 election then being held of a Member of the Legislative Assembly for
 the Electoral District of for that
(1) on this day at the said polling place did
 commit the offence of personation, contrary to *The Election Act*, for that
 the said(2) did apply
 for a ballot paper in the name of another person, that is to say, in the
 name of(or as the case may be, describing
 the offence as in the information);

These are therefore to command you in His Majesty's name forthwith to apprehend the saidand to bring him before the Magistrate of the saidor before two Justices of the Peace for the said county, to answer the said information and to be further dealt with according to law.

Given under my hand and seal thisday of.....
19.....

W.J.

NOTE.—(1) *If the name of the person charged is unknown substitute "a person whose name is unknown to the informant but who is now detained in the said polling place, and is being delivered into the custody of G. D., a constable of the said".*

(2) *Or, "person whose name is unknown".*

R.S.O. 1937, c. 9, Form 2.

CHAPTER 275

The Petty Trespass Act

1. Every person who unlawfully enters into, comes upon or passes through or in any way trespasses upon any land the property of another person which is wholly enclosed or is a garden or lawn, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$1 and not more than \$10, whether any damage has or has not been occasioned thereby. R.S.O. 1937, c. 154, s. 1. Penalty for trespass.

2. Every person found committing such a trespass may be apprehended without warrant by any peace officer, or by the owner of the land on which it is committed, or the servant of, or any person authorized by such owner, and be forthwith taken before the nearest justice of the peace to be dealt with according to law. R.S.O. 1937, c. 154, s. 2. Arrest of trespasser without warrant.

3. Nothing in this Act shall authorize any justice of the peace to hear and determine any case of trespass in which the title to land, or to any interest therein, is called in question or affected; but every such case shall be dealt with according to law in the same manner as if this Act had not been passed. R.S.O. 1937, c. 154, s. 3. Saving cases involving title to land.

4. Nothing in sections 1 and 2 shall extend to any case where the person trespassing acted under a fair and reasonable supposition that he had a right to do the act complained of, or to any case within section 539 of the *Criminal Code* (Canada). R.S.O. 1937, c. 154, s. 4. Saving persons claiming a right. R.S.C. 1927, c. 36.

5. The council of a township may pass by-laws for declaring that in the case of land, the boundary line or any part of the boundary line of which passes through a marsh or swamp or any land covered with water, the same, so far as respects that part of the boundary line which so passes, shall be deemed to be wholly enclosed within the meaning of this Act if posts are maintained along such part at distance which permit of each being clearly visible from the next post. R.S.O. 1937, c. 154, s. 5. By-laws to declare boundaries in marshes.

CHAPTER 276

The Pharmacy Act

1. The Ontario College of Pharmacy, herein called "the College", is continued. R.S.O. 1937, c. 228, s. 1. Ontario College of Pharmacy.

2. The College may purchase, take and possess for the purposes of the College, but for no other purpose, and after acquiring the same, may sell, mortgage, lease or dispose of any real estate. R.S.O. 1937, c. 228, s. 2. Powers as to real estate.

3.—(1) There shall be a council of the College to be called the Pharmaceutical Council, herein called "the Council", which shall consist of 13 members, who shall be elected as herein provided, and shall hold office for two years, from and including the third Monday in November next following such election. Council, composition;

(2) The Council shall, subject to the by-laws thereof, have sole control of the real and personal property of the College, and authority to grant certificates of competency to conduct the business of a chemist or druggist, and to be registered subject to this Act. powers;

(3) The members of the Council shall be elected from among those members of the College who are entitled to vote at the election of the members of the Council. R.S.O. 1937, c. 228, s. 3. qualification.

4.—(1) Ontario shall, for the purposes of this Act, be divided into the 13 electoral districts described in Schedule A. Electoral districts;

(2) The Council may re-arrange the geographical boundaries of the electoral districts by by-law, approved of by the Lieutenant-Governor in Council, but such re-arrangement shall not be made more often than once in 10 years. R.S.O. 1937, c. 228, s. 4. re-arrangement.

5. An election of members of the Council shall be held on the first Wednesday in August in every second year and the persons qualified to vote in any electoral district at the election shall be every member of the College who on the 1st day of June in such election year resides in Ontario and who is carrying on the business of a retail chemist in such electoral district as a proprietor thereof or as a registered Election of members of Council.

manager of a retail incorporated company carrying on such business and who is liable to pay and has paid on or before the last-mentioned date the annual fee under this Act. R.S.O. 1937, c. 228, s. 5.

Local
qualifica-
tion.

6.—(1) One member of the Council shall be elected for each electoral district.

Manner of
election.

(2) The manner of holding such election, with respect to notification of the electors of the time and place of holding the election, the nomination of candidates, the presiding officer thereat, the taking and counting of the votes, the giving of a casting vote in case of an equality of votes, and other necessary details shall be determined by by-law of the Council, and in default of such by-law may be prescribed by the Lieutenant-Governor in Council. R.S.O. 1937, c. 228, s. 6.

Resig-
nations,
vacancies.

7. A member of the Council may at any time resign by notice in writing to the registrar of the College, and in the event of such resignation or in the event of a vacancy occurring, the remaining members of the Council shall appoint a member of the College carrying on business in the electoral district in the representation of which the vacancy occurs, to fill the same. R.S.O. 1937, c. 228, s. 7.

President
and officers.

8. The Council shall, at their first meeting, elect from among themselves a president and a vice-president, and shall appoint a registrar and such other officers as the Council may consider necessary. R.S.O. 1937, c. 228, s. 8.

Meetings of
the Council.

9.—(1) The Council shall hold at least two meetings for the transaction of general business in every year, on the first Monday in June and the first Monday in November, at such place as they may by resolution appoint. R.S.O. 1937, c. 228, s. 9 (1); 1946, c. 70, s. 1.

Notice of
meetings.

(2) Unless otherwise provided by by-law of the Council, notice of such two meetings shall be given once a week for at least four weeks in *The Ontario Gazette*, and in at least two newspapers published in the city of Toronto. R.S.O. 1937, c. 228, s. 9 (2).

Powers of
Council as
to school of
instruction.

10.—(1) The Council may establish and carry on a school of instruction and appoint such professors, lecturers, instructors, officers, servants and employees therefor as may be deemed necessary.

School
continued.

(2) The school now established and carried on by the Council in the city of Toronto may be continued. R.S.O. 1937, c. 228, s. 10.

11.—(1) Subject to the disallowance thereof by the Lieu-Students.
tenant-Governor in Council, the Council may prescribe the subjects upon which candidates for certificates of competency shall be examined, and a curriculum of studies to be pursued by the students, establish a scale of fees, not to exceed \$25, to be paid by persons applying for examination, make by-laws, rules and orders for the regulation of its own meetings and proceedings and those of the College, and for the discipline, suspension or expulsion for cause of any student, and for suspension for cause of any apprentice from serving under his contract of apprenticeship for a period not exceeding one year, and for the remuneration and appointment of examiners and officers of the College, for defining the duties of such examiners and officers, for the payment of remuneration or indemnity to the members of the Council for attending its meetings or upon the business of the College, and in respect to any other matters which the Council may deem requisite for the carrying out of the provisions of this Act. R.S.O. 1937, c. 228, s. 11 (1).

(2) Not more than five cents per mile for travelling ex-Allowances
penses, or more than \$20 per diem for such days as a member to members.
is in actual attendance at a meeting of the Council, or at any meeting mentioned in subsection 3 or upon the business of the College including going to and returning therefrom, shall be allowed to him for such expenses and remuneration. R.S.O. 1937, c. 228, s. 11 (2); 1946, c. 70, s. 2.

(3) The Council may appoint, from time to time, one or more representatives to attend meetings of inter-provincial or other pharmaceutical associations, and may pay out of the College funds to any one or more of such associations such sums as it may deem proper. R.S.O. 1937, c. 228, s. 11 (3).
Appointment of
representative to
attend inter-
provincial
associations.

12. The examinations of the College may be conducted Who may
by the members of the Council, or by persons appointed by examine.
the Council. R.S.O. 1937, c. 228, s. 12.

13.—(1) Subject to the rules, regulations and by-laws, the following persons and no others may be admitted as candidates Qualifica-
for certificates of competency: tion of
candidates
for certifi-
cates of
competency.

- (a) Any person who has registered as an apprentice prior to the 23rd day of March, 1889, and who furnishes to the Council satisfactory evidence of having, in pursuance of a binding contract in writing for that purpose, approved of by the Council, served as an apprentice to a regularly qualified pharmaceutical chemist for a term of not less than three years.

- (b) Any person of the full age of 21 years registered as an apprentice on or after the 23rd day of March, 1889, who furnishes to the Council satisfactory evidence of having so served as an apprentice for such term as may be prescribed by the regulations made under section 17 and who has completed the courses of studies prescribed by such regulations. R.S.O. 1937, c. 228, s. 13 (1); 1950, c. 52, s. 1 (1).

Provision
for death,
etc., of
employer.

- (2) If any person, by reason of the death, failure in business, or removal of his employer, or from any other cause satisfactory to the Council, is unable to complete his term of apprenticeship, he may enter into a new contract to complete the remainder of his unfulfilled term with any other regularly qualified pharmaceutical chemist.

Case of
apprentices
prior to
25th March,
1884.

- (3) Nothing in this section shall apply to any person who had, prior to the 25th day of March, 1884, begun his apprenticeship with a regularly qualified pharmaceutical chemist without such binding contract in writing. R.S.O. 1937, c. 228, s. 13 (3, 4).

Matricula-
tion, re-
quirements
as to.

- 14.**—(1) Every person desirous of becoming apprenticed shall before the term of his apprenticeship begins send to the registrar the sum of \$1 together with a certificate showing that the applicant has passed the examination required for Ontario university matriculation, or possesses academic qualifications in the opinion of the Council equal to that of Ontario university matriculation.

Applicant to
be entitled to
be registered.

- (2) Upon complying with the provisions of this section the applicant shall be entitled to be registered as an apprentice. R.S.O. 1937, c. 228, s. 14.

Register,
how kept.

- 15.** The registrar shall keep a register (Form 1) of all persons entitled to be registered as pharmaceutical chemists under this Act, and shall enter opposite the names of all registered persons who have died a statement of that fact, and shall make all necessary alterations in the addresses of persons registered, and shall cause to be printed and published, on or before the 15th day of June of each year, an alphabetical list of the members who were on the 1st day of June of that year entitled to carry on business as pharmaceutical chemists. R.S.O. 1937, c. 228, s. 15.

Who may be
entered on
register.

- 16.** Notwithstanding the other provisions of this Act, any person,

(a) who,

- (i) has been granted the degree of Bachelor of Science in Pharmacy by the University of

Toronto, or such other degree by such other university or other institution of learning as may be prescribed by the regulations made under section 17, or

- (ii) who has completed such courses of studies and has passed such examinations as may be prescribed by the regulations made under section 17; and
- (b) who has served as an apprentice for such length of term and in accordance with such terms and conditions as may be prescribed by the regulations made under section 17; and
- (c) who has paid the sum required to be paid under clause *a* of subsection 1 of section 21,

shall be entered upon the register and shall become a member of the College. 1950, c. 52, s. 2, *part*.

17. The Council, with the approval of the Lieutenant-Governor in Council, may make regulations,

- (a) prescribing the qualifications of apprentices and the length of term and the terms and conditions of apprenticeship;
- (b) providing for the registration of apprentices with the Council;
- (c) prescribing the qualifications of, and the courses of studies to be completed by candidates for certificates of competency and candidates for registration under this Act;
- (d) designating the universities or other institutions of learning at which the courses of studies may be undertaken and degrees may be obtained under this Act;
- (e) prescribing the examinations to be passed and the degrees to be obtained by candidates for registration. 1950, c. 52, s. 2, *part*.

18. All persons approved of by the Council who hold diplomas from the Pharmaceutical Society of Great Britain, or certificates from any pharmaceutical college in Canada or elsewhere, may be registered as members of the College without the examination prescribed by this Act. R.S.O. 1937, c. 228, s. 17.

Idem.
Diplomas
from other
societies.

Appeals, etc.

19. No name shall be entered in the register unless the registrar is satisfied by proper evidence that the person claiming is entitled to be registered, and any appeal from the decision of the registrar shall be decided by the Council, and any entry proved to the satisfaction of the Council to have been fraudulently or incorrectly made, may be erased from or amended in the register by order of the Council. R.S.O. 1937, c. 228, s. 18.

Certificate of registration.

20. Upon a person being registered he shall be entitled to receive a certificate (Form 2) under the corporate seal of the College, and signed by the registrar, and such certificate shall be *prima facie* evidence in all courts, and upon all proceedings of whatever kind of its execution and contents. R.S.O. 1937, c. 228, s. 19.

Fees.

21.—(1) There shall be payable to the Registrar for the use of the College,

(a) by every person before he is entered upon the register, such sum not exceeding \$25 as may be determined by the by-laws of the Council;

(b) on such day in each year as the Council may fix by by-law by every person registered and practising his profession as a pharmaceutical chemist as owner or manager of the business of a pharmaceutical chemist or as manager of a dispensary, such sum not exceeding \$15 as may be determined by by-law of the Council; and

(c) on such day in each year as the Council may fix by by-law by every registered pharmaceutical chemist, who is a director of an incorporated company carrying on the business of a pharmaceutical chemist, in addition to the sum paid under clause *b*, such sum not exceeding \$15 as may be determined by by-law of the Council.

Fees for additional stores.

(2) Where a person or incorporated company carries on business in more than one shop, such person or such incorporated company shall pay at the same time a further sum not exceeding \$15 as provided by by-law of the Council for each additional shop.

Certificate.

(3) Every person and incorporated company upon payment of the above fees shall be entitled to receive a certificate of such payment in the form prescribed by the Council. 1946, c. 70, s. 3.

Business to be managed by registered chemist.

(4) Every place of business of a retail druggist or chemist and every branch thereof shall be personally managed by a

pharmaceutical chemist registered under this Act. R.S.O. 1937, c. 228, s. 20 (2).

22. Any person registered under section 16, and no other person, shall be entitled to be called a pharmaceutical chemist, and no person except a pharmaceutical chemist, or his registered apprentice, shall compound prescriptions of medical practitioners; but no person shall be entitled to any of the privileges of a pharmaceutical chemist, or of a member of the College, who is in default in respect to any fees payable by him by virtue of this Act. R.S.O. 1937, c. 228, s. 21.

23.—(1) Upon a resolution of the Council being passed declaring that any person in consequence of his conviction of a crime, or of an offence against *The Opium and Narcotic Drug Act, 1929* (Canada) or an offence against *The Liquor Control Act*, or an offence against this Act, is in the opinion of the Council unfit to be on the register, the Council may direct that the name of such person shall be erased therefrom and the registrar shall erase the same accordingly, and his certificate authorizing him to carry on the business of a pharmaceutical chemist shall *ipso facto* be void and be of no force or effect for such period not exceeding two years in the case of a person convicted of a crime or an offence against *The Opium and Narcotic Drug Act, 1929* (Canada) and not exceeding one year in the case of a person convicted of an offence against *The Liquor Control Act*, or this Act, as the Council shall determine by such resolution or until the Council of the College sees fit at its discretion after the expiration of such period to reinstate such pharmaceutical chemist who shall not in the meantime be appointed or act as the employee, clerk, manager or director of, or vote or otherwise interfere as a shareholder in the business of any incorporated company dealing in drugs or medicines under this Act; provided, however, that during the period between the Council meetings a committee of the Council consisting of the president, the chairman of the by-laws and legislation committee and the chairman of the infringement committee thereof may suspend the certificate of registration of such person so convicted until the next meeting of the Council when the same may be considered by the Council and dealt with as in this section provided, and during such suspension the person so convicted shall not be entitled to carry on the business of a pharmaceutical chemist nor shall he be appointed or act as the employee, clerk, manager or director of, or vote or otherwise interfere as a shareholder in the business of any incorporated company dealing in drugs or medicines under this Act.

(2) The Council may by resolution declare any apprentice convicted of any of the offences hereinbefore mentioned in

Who may act as pharmaceutical chemist.

Erasing name of member on conviction of offence. 1929, c. 49 (Canada). Rev. Stat., c. 210.

Suspension of service of apprentice.

this section unfit to serve under a contract of apprenticeship and that such apprentice be barred for a period of time not exceeding one year as the resolution provides, from service under his contract of apprenticeship; provided, however, that during the period between the Council meetings a committee of the Council consisting of the president, the chairman of the by-laws and legislation committee and the chairman of the infringement committee thereof may suspend from service under a contract of apprenticeship any apprentice so convicted until the next meeting of the Council when the same may be considered by the Council and dealt with as in this section provided.

Person convicted not to bring action against Council.

(3) No action or other proceeding shall be brought or taken by or on behalf of any person convicted of any of the crimes or offences mentioned in subsection 1 against the Council or any committee thereof for anything done or attempted in good faith under this section notwithstanding any want of form in the proceedings of the Council or of the committee. R.S.O. 1937, c. 228, s. 22.

Certificate to be publicly displayed.

24. Every pharmaceutical chemist carrying on business on his own account and every manager of each place of business shall display his certificate in a conspicuous position in such place of business, or the place of business which he manages. R.S.O. 1937, c. 228, s. 23.

Retirement from business.

25. Every person registered as a pharmaceutical chemist shall, on retiring from business, give the registrar notice in writing of the same, and his name shall be erased from the register, and he shall cease to enjoy any of the privileges of the College, and in default of such notice he shall remain liable for his annual registration fee; but any such person may resume business at any time after retiring therefrom upon giving notice in writing to the registrar of his intention so to do, and upon payment of the annual registration fee for the then current year. R.S.O. 1937, c. 228, s. 24.

Executors, etc., carrying on business of deceased chemist, etc.

26. Nothing in this Act shall prevent the executor or administrator or the trustee of the estate of any person legally authorized to carry on and actually carrying on the business of a pharmaceutical chemist at the time of his death from continuing the business so long only as it is *bona fide* conducted by a pharmaceutical chemist registered under this Act if such executor, administrator or trustee continues to pay the annual registration fee. R.S.O. 1937, c. 228, s. 25.

How compounds are to be prepared.

27. Unless the label distinctly shows that the compound is prepared according to another formula, every compound named

in the British Pharmacopæia shall be prepared according to the formula directed in the latest edition published "by authority" until the College of Physicians and Surgeons of Ontario selects another standard and thereafter according to such standard. R.S.O. 1937, c. 228, s. 26.

28. No person shall,

Restriction
on sale of
poisons,
drugs or
medicines.

- (a) sell or keep open shop for retailing, dispensing or compounding poisons, drugs or medicines, except patent or proprietary medicines within the meaning of section 44, and except turpentine, Epsom salts, senna, alum, borax, castor oil, sulphur, Glauber's salt, cream of tartar, carbonate of soda, bi-carbonate of soda, glycerine, carbonate of magnesia, citrate of magnesia, Rochelle salts, blue stone, copperas, saltpetre, spirits of nitre, rhubarb root, solution of ammonia, phosphate of soda, gum camphor, quinine, hydrogen peroxide, or chloride of lime, or sell or attempt to sell any of the articles mentioned in Schedule C; or

- (b) assume or use the title of "Chemist and Druggist", or "Chemist", or "Druggist", or "Pharmacist", or "Apothecary", or "Dispensing Chemist", or "Dispensing Druggist", or use the designation "Drug Store", "Pharmacy", "Drugs" or "Medicines", or any sign, title or advertisement implying or calculated to lead the public to infer that he is registered under this Act,

Assumption
of title of
"Chemist",
etc.

unless such person is registered under this Act and has a certificate under section 20. R.S.O. 1937, c. 228, s. 27.

29. No incorporated company shall do any of the acts prohibited by section 28 unless the majority of the directors thereof are duly registered under this Act, and no person not so registered shall in any way interfere with or take part in the management and conduct of such shop, and anything done or omitted which would be an offence under this Act if done or omitted by an individual shall be an offence by each of such registered directors, and by such company, and the prosecution of any one or more of them shall not be a bar to the prosecution of the other or others. R.S.O. 1937, c. 228, s. 28; 1946, c. 70, s. 4.

Shops kept
by incor-
porated
companies.

30.—(1) Nothing in this Act shall prevent the sale by persons not registered of Paris green, hellebore, tincture of iodine, arsenate of lead, carbolic acid, not exceeding a five per cent solution, formaldehyde and London purple, if such articles are sold in well secured packages distinctly labelled

What
poisons
may be sold
by any per-
son and
when.

with the name and address of the person preparing or putting up such packages and marked "poison".

Entry of
sale of car-
bolic acid.

(2) A record shall be kept by the vendor in a book for that purpose of the name and address of each person to whom carbolic acid is sold. R.S.O. 1937, c. 228, s. 29.

Names and
addresses of
directors.

31. Every incorporated company dealing in drugs or medicines under this Act shall before commencing business furnish the registrar with the name and address of each of its directors and thereafter if any change is made in such directors shall forthwith furnish the registrar with the names and addresses of any new directors. R.S.O. 1937, c. 228, s. 30.

Certain
articles to
be deemed
poisons.

32. The articles mentioned in Schedule C shall be deemed to be poisons within the meaning of this Act, and the Council may by resolution declare that any article in the resolution named ought to be deemed a poison within the meaning of this Act, and thereupon the Council shall submit the resolution for the approval of the Lieutenant-Governor in Council, and if approved, and on the expiration of one month from publication in accordance with the provisions of *The Regulations Act*, the article named in the resolution shall be deemed to be a poison within the meaning of this Act, and the same shall be subject to the provisions thereof, or such of them as may be directed by the Lieutenant-Governor in Council. R.S.O. 1937, c. 228, s. 31; 1946, c. 70, s. 5.

Rev. Stat.,
c. 337.

Certain
poisons
to be sold
only in a
certain
manner.

33.—(1) No person or incorporated company shall sell any poison, either by wholesale or retail, unless the box, bottle, vessel, wrapper or cover in which the poison is contained is distinctly labelled with the name of the article and the word "poison", and if sold by retail, then also with the name and address of the proprietor of the establishment in which such poison is sold, and no person shall sell any poison of those which are in the first part of Schedule C, or may be added thereto under section 32, to any person unknown to the seller unless introduced by some person known to the seller, and on every sale of any such article the person actually selling the same shall, before delivery, make an entry (Form 3) in a book to be kept for that purpose, stating the date of the sale, the name and address of the purchaser, the name and quantity of the article sold, the purpose for which it is stated by the purchaser to be required, and the name of the person who introduced him, to which entry the signature of the purchaser shall be affixed.

Sale of car-
bolic acid
by retail.

(2) In addition to the requirements of subsection 1, carbolic acid, above a five per cent solution, shall not be sold by retail except,

- (a) in a glass bottle of light blue colour having six sides, the front being of plain surface, upon which the label shall be placed, and two opposite sides having blown on them the words "poison", "use with caution", and prominent points on the other portion of the surface thereof in such a manner as to render the bottle distinguishable to the touch from ordinary bottles; or
- (b) in such other bottle as may be authorized by the Council from time to time by regulation approved of by the Lieutenant-Governor in Council; and
- (c) subject to such other regulations as may be enacted by by-law of the Council approved of by the Lieutenant-Governor in Council.

(3) Nothing in this section shall apply to any article when Exceptions. forming part of the ingredients of any medicine prescribed by a legally qualified medical practitioner if the medicine is labelled with the name and address of the seller and the ingredients thereof are entered with the name of the person to whom it is sold or delivered in a book to be kept for that purpose. R.S.O. 1937, c. 228, s. 32.

34.—(1) No person or incorporated company shall sell by Sale of articles in Sched. D. retail any article mentioned in Schedule D except on a prescription for every sale signed by a legally qualified medical practitioner, dentist or veterinary surgeon, and no person or incorporated company shall give away any such article except to a legally qualified medical practitioner, dentist or veterinary surgeon. R.S.O. 1937, c. 228, s. 33 (1); 1939, c. 34, s. 1.

(2) The Lieutenant-Governor in Council may amend Amendment of Sched. D. Schedule D by adding any article thereto or striking any article therefrom, but no such amendment shall come into force until 30 days after the publication thereof in accordance with *The Regulations Act*. R.S.O. 1937, c. 228, s. 33 (2); 1946, c. 70, Rev. Stat., c. 337.

35.—(1) The Minister of Health may require any medical Reports to the Minister of Health. practitioner, dentist, veterinary surgeon or pharmaceutical chemist, to report from time to time to the Minister or to the College the quantity of any article mentioned in Schedule D which he has purchased, sold or prescribed. R.S.O. 1937, c. 228, s. 34 (1); 1939, c. 34, s. 2 (1).

(2) Every pharmaceutical chemist shall keep a record of Record to be kept by chemist. every article mentioned in Schedule D which he has purchased or sold, showing the date, the quantity, and the person from whom such article has been purchased or to whom it has been

sold, and the name of the medical practitioner, dentist or veterinary surgeon upon whose prescription such article has been sold. 1939, c. 34, s. 2 (2).

Reports by
the registrar.

(3) The Minister may require the registrar of the College to report from time to time to him any information in the possession of the registrar or the College with respect to any article mentioned in Schedule D.

Disciplinary
action.

(4) Where it appears to the Minister that any medical practitioner, dentist, veterinary surgeon or pharmaceutical chemist has sold or prescribed an excessive, unreasonable or improper amount of any article mentioned in Schedule D, or has failed or neglected to make a proper and complete report as mentioned in subsection 1, the Minister may report such matter to the disciplinary body of the College of Physicians and Surgeons of Ontario, the Royal College of Dental Surgeons of Ontario, the Ontario Veterinary Association or the Ontario College of Pharmacy, as the case may be. R.S.O. 1937, c. 228, s. 34 (2, 3).

Power to
discipline.

(5) Every such disciplinary body shall have the power to inquire into the matter and to reprimand, or suspend or cancel the licence to practise of any member of the profession whom it finds to have purchased, sold or prescribed an excessive, unreasonable or improper amount of any article mentioned in Schedule D.

Appeal.

(6) No action shall be brought against any such disciplinary body or any member thereof for anything done *bona fide* under this section, notwithstanding any want of form in the proceedings, but any member of the profession who is reprimanded or whose licence to practise is suspended or cancelled under this section may appeal from the decision of the disciplinary body to the Court of Appeal, at any time within six months from the date of any order made by the disciplinary body, and the court may, upon the hearing of the appeal, make such order as to quashing or confirming the reprimand, or the suspension or cancellation of the licence to practise, or for further inquiry by the disciplinary body into the facts of the case and as to costs as the court may deem just. 1939, c. 34, s. 2 (3).

Inspection
of books.

36. Any book by this Act required to be kept shall be open to inspection by any police officer or constable, or any authorized agent of the College. R.S.O. 1937, c. 228, s. 35.

Selling to in-
clude giving,
furnishing
or disposing
of poisons.

37. The prohibitions, restrictions and provisions in this Act as to selling poisons shall extend to exhibiting or offering for sale, or giving, furnishing or otherwise disposing of them. R.S.O. 1937, c. 228, s. 36.

38. No person shall wilfully or knowingly sell any article under the representation or pretence that it is a particular drug or medicine which it is not, and any person so doing, in addition to any other penalty to which he may be liable, shall be liable to the penalty described by section 39. R.S.O. 1937, c. 228, s. 37. Penalties on wrongful sales.

39.—(1) Every person or incorporated company who contravenes any of the provisions of this Act shall be guilty of an offence and on summary conviction shall be liable for the first offence to a penalty of not less than \$20 and not more than \$100, and for each offence committed subsequent to conviction for such first offence to a penalty of not less than \$50 and not more than \$200, and the amounts recovered shall be paid over to the registrar for the use of the College. Penalties.

(2) The College shall forthwith refund so much of the penalty as has been received by the registrar in any case upon an order to that effect being passed by the Lieutenant-Governor in Council. R.S.O. 1937, c. 228, s. 38. Application of penalties.

40. In any prosecution under this Act the burden shall rest on the defendant to prove that he is registered and holds a certificate under this Act, and to give evidence sufficient *prima facie* to prove that no unregistered person who personally takes any part in selling or dispensing drugs or medicines is interested with him in his sales thereof. R.S.O. 1937, c. 228, s. 39. Onus of proof.

41. A person who sells any article in violation of the provisions of this Act shall not be entitled to recover any charges in respect thereof. R.S.O. 1937, c. 228, s. 40. Price of articles sold contrary to this Act not to be recovered.

42. Nothing in this Act shall affect or interfere with the rights and privileges conferred upon a legally qualified medical practitioner by *The Medical Act*, and where such medical practitioner desires to carry on the business of a pharmaceutical chemist as defined by this Act, he shall not be required to pass the examination prescribed by the College, but he shall register as a pharmaceutical chemist and comply with all other requirements of this Act. R.S.O. 1937, c. 228, s. 41. Saving as to qualified medical practitioners, etc. Rev. Stat., c. 228.

43. Nothing in this Act shall prevent any person from selling goods of any kind to a pharmaceutical chemist or to a legally qualified medical practitioner or to a veterinary surgeon, or shall prevent a legally qualified medical practitioner or a veterinary surgeon from supplying such medicine as he may prescribe, or, except as provided by section 31, shall interfere with the business of wholesale dealers in supplying Sales to chemists, etc., not affected.

poisons or other articles in the ordinary course of wholesale dealing. R.S.O. 1937, c. 228, s. 42.

Selling
patent
medicines.

44.—(1) Nothing in this Act shall interfere with or affect the making or dealing in any proprietary or patent medicine.

Interpre-
tation.
R.S.C. 1927,
c. 151.

(2) The words "proprietary or patent medicine" in this Act shall have the meaning and be defined as in the *Proprietary or Patent Medicine Act* (Canada). R.S.O. 1937, c. 228, s. 43.

Honorary
membership.

45. The Council may elect as honorary members of the College such persons as they may deem eminent for scientific attainments, but no such honorary member shall be entitled to vote at elections or carry on the business of pharmaceutical chemist unless registered as a pharmaceutical chemist. R.S.O. 1937, c. 228, s. 44.

Division
associations
and electoral
districts.

46. In each of the electoral districts there may be established a division association, which may be called the Division Association of such district, of which every member of the College residing in such district shall be a member, and each representative in the Council shall be *ex officio* chairman of such division association. R.S.O. 1937, c. 228, s. 45.

SCHEDULE A

(Section 4 (1))

ELECTORAL DISTRICTS

No. 1 Division—The Counties of Glengarry, Prescott, Stormont, Russell, Renfrew, Dundas, Carleton, Lanark, and Grenville.

No. 2 Division—The Counties of Leeds, Frontenac, Lennox and Addington, Prince Edward, and Hastings.

No. 3 Division—The Counties of Northumberland, Durham, Peterborough, Victoria, Haliburton, and Ontario.

No. 4 Division—That portion of the City of Toronto east of Spadina Avenue and Spadina Road.

No. 5 Division—That portion of the City of Toronto west of Spadina Avenue and Spadina Road.

No. 6 Division—The Counties of Simcoe and York and the Districts of Parry Sound and Muskoka.

No. 7 Division—The Counties of Wellington, Halton, Peel, Dufferin, and Perth.

No. 8 Division—The Counties of Wentworth, Lincoln, and Welland.

No. 9 Division—The Counties of Brant, Waterloo, Haldimand, and Norfolk.

No. 10 Division—The Districts of Rainy River, Thunder Bay, Algoma, Nipissing, Sudbury, Temiskaming, Kenora, and Manitoulin.

No. 11 Division—The Counties of Elgin, Middlesex, and Oxford.

No. 12 Division—The Counties of Huron, Grey, and Bruce.

No. 13 Division—The Counties of Lambton, Kent, and Essex.

R.S.O. 1937, c. 228, Sched. A.

SCHEDULE B

FORM 1

(Section 15)

REGISTER

Name	Residence	Qualifications	Remarks
A. B.	Kingston.	In business for three years prior to (date).	Dead.
C. D.	Toronto.	Examined and Certified (date).	Erased by order of the Lieut.-Gov., (date).
E. F.	London.	Served apprenticeship and as assistant.	

R.S.O. 1937, c. 228, Sched. B, Form 1.

FORM 2

(Section 20)

CERTIFICATE OF REGISTRATION

I hereby certify that *C. D.*, having complied with the requirements of *The Pharmacy Act*, was on the.....day of....., 19....., duly registered as a Pharmaceutical Chemist, and is authorized to carry on the business of Chemist and Druggist in the Province of Ontario from the.....day of....., 19....., to the.....day of....., 19.....

*R. F.,**Registrar of the Ontario College of Pharmacy.*

[Corporate Seal]

R.S.O. 1937, c. 228, Sched. B, Form 2.

FORM 3

(Section 33)

ENTRY OF SALE

Date	Name of purchaser.	Name and quantity of poison sold.	Purpose for which it is required.	Signature of purchaser.	Address of purchaser.	Name of person introducing purchaser.	Name of medical practitioner or whose prescription furnished.

R.S.O. 1937, c. 228, Sched. B, Form 3.

SCHEDULE C

(Sections 28, 32, 33)

PART I

Acid, Hydrocyanic (Prussic),
 Aconite, and preparations and
 compounds thereof,
 Antimony, Tartarated (Tartar Emetic),
 Arsenic, and preparations and compounds thereof, except Paris Green,
 Atropine,
 Carbolic Acid, exceeding a five per cent solution,
 Chloral Hydrate,
 Cocaine, and its salts or any admixture thereof,
 Digitalin,
 Ergot, and preparations and compounds thereof,

Eucaïne, and its salts or any admixture thereof,
 Heroin,
 Indian Hemp,
 Mercury Bichloride (Corrosive Sublimite),
 Morphine, and its salts, or any admixture thereof,
 Nux Vomica,
 Oil of Cedar,
 Opium, including crude opium, powdered opium, or opium prepared or in course of preparation for smoking,
 Savin, and all preparations thereof,
 Strychnine, and its salts,
 Veratrine.

PART II

Acetanilide (Antifebrin),	Mercury, and preparations,
Acid, Oxalic,	Oil of Bitter Almonds,
Antimony, preparations of,	Oil of Pennyroyal, and prepara-
Antipyrine,	tions,
Belladonna, and preparations and	Oil of Tansy,
compounds thereof,	Phenacetin,
Calabar Beans,	Phosphorous in a free state.
Cantharides,	Pink Root,
Chloroform,	Podophyllin,
Columbian Spirits,	(Resin Podophyllin),
Conium, and preparations thereof,	Potassium Bromide,
Cotton Root, and preparations	Potassium Cyanide,
thereof,	Potassium Iodide,
Cocculus Indicus (Fish Berry),	Rue, and all preparations,
Creosote,	St. Ignatius Beans,
Croton Oil and Seeds,	Santonin,
Elaterium,	Sabadilla Seeds,
Ether,	Scammony,
Euphorbium,	Sulfonal,
Formaldehyde (Formalin),	Trional,
Goulard's Extract,	Valerian,
Hyoscyamus, and preparations,	Verdigris,
Iodine, and preparations,	Zinc Sulphate.
Laudanum, but not paregoric,	

R.S.O. 1937, c. 228, Sched. C.

SCHEDULE D

(Sections 34, 35)

Codeine and its salts in any form, except when combined with other medicinal ingredients and not exceeding one-half of one grain of codeine or its salts and not less than the amount set by the British Pharmacopoeia as a minimum dose of one of the other medicinal ingredients in each maximum dose of the combination, but where the combination contains two or more such ingredients having a similar action the minimum dose of each ingredient may be reduced to one-half the Pharmacopoeial dose where two ingredients are used and to one-third where three ingredients are used, and where the combination contains less than one-half of one grain of codeine or its salts in a maximum dose of the combination the minimum dose of such ingredients may be reduced in proportion to the reduction in codeine.

Amidopyrine and barbituric acid (malonylurea) and derivatives or chemical combinations, except when combined with other medicinal ingredients and not exceeding one-half of one grain of amidopyrine or barbituric acid or the said derivatives or combinations and not less than the amount set by the British Pharmacopoeia as a minimum dose of one of the other medicinal ingredients in each maximum dose of the combination and when the combination contains less than one-half of one grain of amidopyrine or barbituric acid or the said derivatives or combinations in a maximum dose of the combination the minimum dose of such ingredient may be reduced in proportion to the reduction in the above drug.

Sulphanilamide, para amino benzene sulphonamide or any derivative thereof or any combination thereof with other substances, and whether sold under the proper name or under any trade name, mark or designation.

R.S.O. 1937, c. 228, Sched. D; O. Regs. 38/44, 39/44.



CHAPTER 277

The Planning Act**1. In this Act,**Interpreta-
tion.

- (a) "council" means council of a municipality;
- (b) "designated municipality" means municipality designated by the Minister to formulate the official plan;
- (c) "housing project" means a project designed to furnish housing accommodation together with any public space, recreational facilities and commercial space or buildings appropriate thereto;
- (d) "local board" means any school board, public utility commission, transportation commission, public library board, board of park management, board of health, board of commissioners of police, planning board or any other board, commission, committee, body or local authority established or exercising any power or authority under any general or special Act with respect to any of the affairs or purposes of a municipality or of two or more municipalities or portions thereof;
- (e) "Minister" means Minister of Planning and Development;
- (f) "municipality" means city, town, village, township or improvement district;
- (g) "official plan" means a plan consisting of the maps and texts prepared and recommended by the planning board and adopted and approved as provided in this Act, covering a planning area or any part thereof, showing a programme of development, or any part thereof, designed to secure the health, safety, convenience or welfare of the inhabitants of the area;
- (h) "planning area" means an area comprising the whole or part of one or more municipalities as defined by the Minister;
- (i) "public work" means any undertaking or improvement of a structural nature that is within the jurisdiction of the council or any local board. 1946, c. 71, s. 1; 1947, c. 75, s. 1; 1949, c. 71, s. 1.

Establish-
ment of
planning
areas.

2.—(1) Upon application by the council of a municipality, the Minister may define and name a planning area. 1949, c. 71, s. 2.

Idem.

(2) Where the planning area covers more than one municipality, the Minister shall designate the municipality that shall formulate the official plan, and the scope and general purpose thereof. 1946, c. 71, s. 2 (2).

Unorganized
territory.

(3) The Minister may include in a planning area any territory without municipal organization that adjoins a municipality included in the planning area. 1950, c. 53, s. 1.

Subsidiary
planning
areas.

(4) Where the council of a municipality within a planning area is desirous of having an official plan for local purposes, the Minister may define a subsidiary planning area.

Matters
to be
regarded.

(5) In defining the scope and general purpose of the official plan the Minister shall have regard among other matters to the requirements of the planning area for drainage, land uses, communications and public services. 1946, c. 71, s. 2 (3, 4).

Appoint-
ment of
planning
boards.

3. When the planning area is defined, the council shall appoint the planning board, and where the planning area covers more than one municipality, the council of the designated municipality shall, subject to the approval of the Minister, appoint the planning board. 1946, c. 71, s. 3.

Composition
of planning
boards.

4.—(1) The planning board shall be a body corporate by the name of "..... Board" (*inserting the name of the planning area*) and shall consist of,

(a) where the planning area consists of one municipality, the head of the council of the municipality as a member *ex officio*; or

(b) where the planning area consists of more than one municipality, the head of the council of the designated municipality as a member *ex officio*,

and four, six or eight members who are not employees of a municipality or of a local board.

Idem.

(2) The members of a planning board who are members of a municipal council shall not constitute a majority of the members of the planning board.

Substitute
for head of
council.

(3) The head of a council who is *ex officio* a member of the planning board, with the approval of the council, may appoint a substitute to act for him from time to time. 1949, c. 71, s. 3 (1).

(4) The members of the planning board who are not members of a municipal council shall hold office for three years, provided that on the first appointment the council, from among such members, shall designate members who shall hold office for one year, two years and three years respectively so that as nearly as possible one-third of such members shall retire each year; and the members of the planning board who are members of a council shall be appointed annually. 1946, c. 71, s. 4 (4); 1949, c. 71, s. 3 (2). ^{Term of office.}

(5) The members of the planning board shall hold office until their successors are appointed and shall be eligible for reappointment. ^{Reappointment.}

(6) Where a member ceases to be a member of the planning board before the expiration of his term, the council shall appoint another eligible person for the unexpired portion of the term. 1946, c. 71, s. 4 (5, 6). ^{Vacancies.}

(7) A majority of the members of a planning board shall constitute a quorum. 1949, c. 71, s. 3 (3). ^{Quorum.}

(8) The planning board shall elect a chairman and a vice-chairman who shall preside in the absence of the chairman. ^{Officers.}

(9) The planning board shall appoint a secretary-treasurer, who may be a member of the board, and may engage such employees and consultants as is deemed expedient. 1946, c. 71, s. 4 (8, 9). ^{Secretary-treasurer, employees, consultants.}

5. Notwithstanding sections 2, 3 and 4, the Minister may, in order to suit the special needs of any planning area, vary the constitution of the Board, the procedures by which it is appointed and the manner in which it shall function. 1947, c. 75, s. 2. ^{Minister may vary planning board.}

6. The execution of documents by the planning board shall be evidenced by the signature of the chairman or the vice-chairman and of the secretary-treasurer and the corporate seal of the board. 1946, c. 71, s. 5. ^{Execution of documents.}

7.—(1) The planning board shall submit annually to the council an estimate of its financial requirements for the year and the council may amend such estimate and shall pay to the secretary-treasurer of the board out of the moneys appropriated for the board such amounts as may be requisitioned from time to time. ^{Finances.}

(2) Any municipality within or partly within a planning area may make grants of money to the planning board. ^{Grants in aid, local municipalities;}

counties.

(3) The county in which a planning area or part thereof is situated may make grants of money to the planning board. 1947, c. 75, s. 3.

Duties of
planning
boards.

8. The planning board shall investigate and survey the physical, social and economic conditions in relation to the development of the planning area and perform such other duties of a planning nature as may be referred to it by the council, and without limiting the generality of the foregoing it shall,

- (a) prepare maps, drawings, texts, statistical information and all other material necessary for the study, explanation and solution of problems or matters affecting the development of the planning area;
- (b) hold public meetings and publish information for the purpose of obtaining the participation and co-operation of the inhabitants of the planning area in determining the solution of problems or matters affecting the development of the planning area;
- (c) consult with any local board having jurisdiction within the planning area;
- (d) prepare a plan of the planning area and recommend it to the council for adoption;
- (e) recommend from time to time to the council the implementation of any of the features of the official plan. 1946, c. 71, s. 7.

Plan to be
submitted
to council.

9.—(1) The plan as finally prepared and recommended by the planning board shall be submitted to the council.

Adoption
of plan.

(2) The council may adopt the plan by a vote of the majority of all the members. 1946, c. 71, s. 8.

Plan to be
submitted
to Minister.

10.—(1) Upon adoption the plan shall be submitted by the council to the Minister who may refer the plan to any department of the public service of Ontario that may be concerned therewith and to The Hydro-Electric Power Commission of Ontario, and where the planning area consists of more than one municipality, the Minister shall refer the plan to the council of every municipality in the planning area, and if modifications appear desirable, settle such modifications as far as possible to the satisfaction of all concerned and cause the plan to be amended accordingly.

Approval by
Minister.

(2) The Minister may then approve the plan, whereupon it shall be the official plan of the planning area. 1946, c. 71, s. 9.

11.—(1) At least two, or as many as may be required, ^{Lodging of official plan.} certified copies of the official plan shall be lodged by the board in the office of the Minister and in the office of the clerk of every municipality within the planning area, and shall be available at such places for public inspection during office hours.

(2) At least two, or as many as may be required, duplicate ^{Idem.} originals of the official plan shall be lodged by the planning board in every registry office of lands within the planning area, where they shall be made available to the public as productions. 1946, c. 71, s. 10.

12. The provisions of this Act with respect to an official ^{Alterations and additions.} plan shall apply *mutatis mutandis* to alterations and additions thereto, provided that the Minister may approve any alteration or addition that may be proposed by the council of any municipality. 1946, c. 71, s. 11; 1947, c. 75, s. 4.

13.—(1) Notwithstanding any other general or special ^{Public works and by-laws to conform with plan.} Act, where an official plan is in effect, no public work shall be undertaken and, except as provided in subsection 2, no by-law shall be passed for any purpose that does not conform therewith.

(2) The Ontario Municipal Board, upon the application of ^{Municipal Board may approve by-law.} the council of a municipality for which an official plan is in effect, may by its order declare that a by-law of such municipality shall be deemed to conform with the official plan if the Board is of opinion that the by-law conforms with the general intent and purposes of the official plan.

(3) The procedure upon application to the Board under ^{Procedure.} subsection 2 shall be the same as nearly as may be as in the case of an application to the Board under section 390 of *The Rev. Stat., c. 243.* *Municipal Act*. 1950, c. 53, s. 2.

14. A by-law that conforms with an official plan shall be ^{By-laws implementing plans.} deemed to implement the plan whether the by-law is passed before or after the plan. 1949, c. 71, s. 5.

15.—(1) Where an official plan is implemented by one or ^{Committee of adjustment.} more by-laws, the planning board of the municipality that passed the by-law or by-laws may constitute itself or any of its members as a committee of adjustment, unless and until the council constitutes such a committee composed of such persons as the council, subject to the approval of the Minister, may deem advisable.

(2) The members of a committee shall remain in office during ^{Term of office.} the pleasure of the board or council, as the case may be.

Quorum.

(3) Two members or one-third of the members of the committee, whichever is greater, shall constitute a quorum.

Chairman.

(4) The members of a committee shall elect one of themselves as chairman, and when the chairman is absent through illness or otherwise the committee may appoint another member to act as chairman *pro tempore*.

Secretary-treasurer.

(5) The committee shall appoint a secretary-treasurer who may be a member of the committee.

Powers of committee.

(6) The committee, upon the application of the owner of land affected by any by-law that implements an official plan, may, notwithstanding any other Act, exempt or partly exempt the land from the operation of the by-law, provided that the general purpose of the by-law and the official plan is maintained and that the objections, if any, to the application have been withdrawn. 1947, c. 75, s. 7, *part*.

Reference to Municipal Board.

(7) When,

(a) the objections to an application are not withdrawn and are, in the opinion of the committee, unfair and unreasonable; and

(b) the committee so requests the Minister in writing, the Minister may refer the matter to the Ontario Municipal Board, and the Board shall have power to review the matter in such manner and to make such order as it deems proper, and the order of the Board shall be final. 1949, c. 71, s. 6.

Notice.

(8) The committee, before hearing an application, shall give notice thereof in such manner and to such persons as the committee deems proper.

Fees.

(9) The committee may require that a fee of not more than \$25 be paid on every such application.

Hearing.

(10) At the place and time appointed for the hearing the committee shall hear the applicant and every other person who desires to be heard in favour of or against the application, and the committee may adjourn the hearing or reserve its decision.

Decision not to exempt.

(11) When the decision of the committee does not exempt or partially exempt land from the operation of the by-law, the committee shall put its decision in writing and send a copy thereof, signed by the secretary-treasurer, to the applicant.

Decision to exempt.

(12) When the decision of the committee exempts or partly exempts land from the operation of the by-law, the committee shall put its decision in writing and send two copies thereof, signed by the secretary-treasurer, to the Minister.

(13) The Minister shall receive the decision of the committee and may approve, reverse or vary the decision in any manner that he deems proper. Review.

(14) As approved, reversed or varied by the Minister, the decision shall be final and binding and a notice thereof shall be sent by the Minister to the committee and the committee shall thereupon notify the applicant of the result. 1947, c. 75, s. 7, *part.* Effect of decision.

16.—(1) For the purpose of developing any feature of the official plan a municipality, with the approval of the Minister, may at any time and from time to time, Acquisition of lands for official plan purposes.

(a) acquire land within the municipality;

(b) hold land heretofore or hereafter acquired within the municipality; or

(c) sell, lease or otherwise dispose of land so acquired or held when no longer required. 1946, c. 71, s. 15 (1).

(2) For the purpose of developing any feature of the official plan the designated municipality, with the approval of the Minister, may exercise any of the powers mentioned in subsection 1 in respect of land within the planning area. Powers of designated municipality.

(3) For the purpose of developing any feature of any official plan, a county, with the approval of the Minister, may exercise any of the powers mentioned in subsection 1 with respect to the land within the county. Powers of county.

(4) Any county or municipality may contribute towards the cost of acquiring land under this section. 1947, c. 75, s. 8. Contributions to cost.

17.—(1) For the purpose of a housing project a municipality, with the approval of the Minister, may, Acquisition of lands for housing projects.

(a) acquire land within the municipality;

(b) hold land heretofore or hereafter acquired within the municipality; or

(c) sell, lease or otherwise dispose of land so acquired or held for a nominal or other consideration to any person or governmental authority having power to undertake housing projects.

(2) For the purpose of a housing project a municipality, with the approval of the council of the municipality in which the land is situate and the Minister, may exercise any of the powers mentioned in subsection 1 in respect of land in any adjacent municipality. 1946, c. 71, s. 16. Acquisition of lands in adjacent municipalities for housing projects.

Rev. Stat.,
c. 243 to
apply.

18. The provisions of *The Municipal Act* shall apply to the acquisition of land under section 16 or 17. 1946, c. 71, s. 17.

Power to
clear, grade,
etc., lands
acquired.

19. When a municipality has acquired or holds lands for any purpose authorized by this Act, the municipality may clear, grade or otherwise prepare the land for the purpose for which it has been acquired or is held. 1946, c. 71, s. 18.

Exchange
of lands.

20. When a municipality acquires land for any purpose authorized by this Act, the whole or partial consideration therefor may be land then owned by the municipality. 1946, c. 71, s. 19.

Power to
erect, etc.,
housing
projects.

21. To relieve the existing emergency in housing conditions a municipality, with the approval of the Minister, may erect, maintain, manage and wind up projects for temporary housing accommodation either within or outside the municipality. 1946, c. 71, s. 20.

Power to
share capital
and main-
tenance cost
of housing
projects.

22. A municipality, with the approval of the Minister, may enter into agreements with any person or governmental authority for sharing or contributing to the capital cost or the maintenance cost of housing projects. 1946, c. 71, s. 21.

Agreements
to maintain
land uses
surrounding
housing
projects.

23. A municipality, with the approval of the Minister, may enter into an agreement with any person or governmental authority undertaking a housing project to provide that certain specified uses of land in a specified area surrounding the project will be maintained for the period specified in the agreement. 1946, c. 71, s. 22.

Areas of
subdivision
control.

24.—(1) The council may by by-law designate any area within the municipality as an area of subdivision control and thereupon no person shall convey land in the area by way of a deed or transfer on any sale or enter into an agreement of sale and purchase or enter into any agreement that has the effect of granting the use of or right in the land directly or by entitlement to renewal for a period of 21 years of more,

- (a) unless the land is described in accordance with and is within a registered plan of subdivision, but the council may, in the by-law, designate land which although within a registered plan of subdivision shall be deemed not to be within a registered plan of subdivision for the purposes of this subsection;
- (b) unless the land is more than 10 acres in area;
- (c) unless the land is the whole part remaining to the person of one parcel described in a registered conveyance to him; or

- (d) unless the consent of the planning board, if any, or where there is a subsidiary planning area, the planning board thereof, or the Minister, is given.

(2) At least two, or as many as may be required, certified copies of the by-law shall be lodged in the office of the Minister where they shall be available for public inspection during office hours, and registered in the proper registry office where they shall be made available to the public as productions. Lodging of copies of by-law.

(3) When an area is designated as an area of subdivision control it shall not be altered or dissolved without the approval of the Minister. Alteration and dissolution.

(4) Every person who contravenes this section shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$500. 1947, c. 75, s. 9; 1949, c. 71, s. 7. Penalty.

25.—(1) The Minister, with respect to any land in Ontario that is not covered by an official plan or is not within the scope of a by-law passed under section 390 of *The Municipal Act*, may by order, Power of Minister to zone. Rev. Stat., c. 243.

(a) without the approval of the Ontario Municipal Board, exercise any of the powers conferred upon councils by the said section 390; or

(b) exercise the powers conferred upon councils by section 24 in respect of areas of subdivision control. 1946, c. 71, s. 24 (1); 1949, c. 71, s. 8.

(2) The Minister may give notice of any such order in such manner as he deems expedient. 1946, c. 71, s. 24 (2). Notice.

(3) Every person who contravenes an order of the Minister made under this section shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$500. 1947, c. 75, s. 10. Penalty.

26.—(1) When land is to be subdivided for the purpose of being sold, conveyed or leased in lots by reference to a registered plan of subdivision, the person desiring to register the plan shall forward at least eight, or as many as may be required, copies of a draft plan thereof drawn to scale, together with an application for approval, to the Minister. 1947, c. 75, s. 11 (1). Application for approval of subdivision plans.

(2) The draft plan shall show the boundaries of the land to be subdivided, certified by an Ontario land surveyor, and shall indicate, What draft plan to indicate.

(a) the locations, widths and names of the proposed highways within the proposed subdivision and of

existing highways on which the proposed subdivision abuts;

- (b) on a small key plan, all of the land adjacent to the proposed subdivision which is owned by the applicant or in which the applicant has an interest;
- (c) every adjoining subdivision and the relationship thereto of the lands proposed to be subdivided, and where the adjoining land is not subdivided, the relationship of the boundaries of the land to be subdivided to the boundaries of the township lot or other original grant of which such land forms the whole or part;
- (d) the purpose for which the lots are to be used;
- (e) the nature of the existing uses of adjoining land;
- (f) the approximate dimensions and layouts of the proposed lots;
- (g) natural and artificial features such as buildings, railways, highways, watercourses, drainage ditches, swamps and wooded areas within or adjacent to the land proposed to be subdivided, and anything within or adjacent to such land that constitutes a fire hazard to the proposed subdivision;
- (h) the availability and nature of domestic water supplies;
- (i) the nature and porosity of the soil;
- (j) such contours or elevations as may be required to determine the grade of the highways and the drainage of the land;
- (k) the municipal services available or to be available to the land proposed to be subdivided. 1946, c. 71, s. 25 (2); 1947, c. 75, s. 11 (2); 1950, c. 53, s. 3 (1).

Minister
to confer.

(3) The Minister may then confer with officials of municipalities and departments of the public service, commissions, authorities and any others who may be concerned and shall settle a draft plan that, in his opinion, will meet all requirements. 1946, c. 71, s. 25 (3).

What
matters to
be regarded.

(4) In considering a draft plan of subdivision regard shall be had, among other matters, to the health, safety, convenience and welfare of the future inhabitants and to the following:

- (a) whether the plan conforms to the official plan and adjacent plans of subdivision, if any;
- (b) whether the subdivision is premature or necessary in the public interest;

- (c) the suitability of the land for the purposes for which it is being subdivided; 1946, c. 71, s. 25 (4), cls. (a-c).
 - (d) the number, width, location and proposed grades and elevations of highways, and the adequacy thereof, and the highways linking the highways in the proposed subdivision with the established highway system in the vicinity, and the adequacy thereof; 1946, c. 71, s. 25 (4), cl. (d); 1947, c. 75, s. 11 (3).
 - (e) the dimensions and shape of the lots;
 - (f) the restrictions or proposed restrictions, if any, on the land, buildings and structures proposed to be erected thereon and the restrictions, if any, on adjoining lands;
 - (g) conservation of natural resources and flood control;
 - (h) the adequacy of utilities and municipal services;
 - (i) the area of land, if any, within the subdivision that, exclusive of highways, is to be dedicated for public purposes. 1946, c. 71, s. 25 (4), cls. (e-i).
- (5) The Minister may impose as a condition to the approval of a plan of subdivision that land to an amount determined by the Minister but not exceeding five per cent of the land included in the plan shall be dedicated for public purposes, other than highways, and that highways shall be dedicated adequate for the needs of the subdivision, and when the subdivision abuts on an existing highway, that sufficient land, other than land occupied by buildings or structures, shall be dedicated to provide for the widening of the highway to a width of not more than 43 feet, or in the case of the King's Highway 50 feet, from the centre line of the highway as originally established. 1947, c. 75, s. 11 (5); 1949, c. 71, s. 10 (1); 1950, c. 53, s. 3 (2). Dedication of land for public and highway purposes.
- (6) Upon settlement of the draft plan, the Minister may give his approval thereto, and may in his discretion withdraw his approval at any time prior to his approval of a final plan for registration. 1946, c. 71, s. 25 (5); 1949, c. 71, s. 10 (2). Approval of draft plan by Minister.
- (7) When the draft plan is approved, the person desiring to subdivide may proceed to lay down the highways and lots upon the ground in accordance with *The Surveys Act* and *The Registry Act* or *The Surveys Act* and *The Land Titles Act*, as the case may be, and to prepare a plan accordingly certified by an Ontario land surveyor. 1946, c. 71, s. 25 (6); 1947, c. 75, s. 11 (4). When draft plan approved. Rev. Stat., c. 381, 336, 197.
- (8) Upon presentation by the person desiring to subdivide, the Minister may, if satisfied that the plan is in conformity Approval of plan by Minister.

with the approved draft plan, approve the plan of subdivision and thereupon the plan of subdivision may be tendered for registration. 1946, c. 71, s. 25 (7).

Withdrawal
of approval
of plan for
registration.

(9) When a final plan for registration is approved by the Minister under subsection 8 and is not registered within one month of the date of approval, the Minister may withdraw his approval and may require that a new application be submitted. 1949, c. 71, s. 10 (4), *part*.

Duplicates
to be
deposited
and sent to
Minister.
Rev. Stat.,
cc. 336, 197.

(10) In addition to any requirement under *The Registry Act* or *The Land Titles Act*, the person tendering the plan of subdivision for registration shall deposit with the registrar or master of titles a duplicate, or when required by the Minister two duplicates, of the plan in the form of linen tracings or transparent linen prints of a type approved by the Minister, and the registrar or master shall endorse thereon a certificate showing the number of the plan and the date when the plan was registered and shall deliver such duplicate or duplicates to the Minister. 1950, c. 53, s. 3 (3).

Saving.

(11) Approval of a plan of subdivision by the Minister shall not operate to release any person from doing anything that he may be required to do by or under the authority of any other Act. 1949, c. 71, s. 10 (4), *part*.

Penalty
for certain
land sales.

27. Every person who subdivides and offers for sale, agrees to sell or sells land by a description in accordance with an unregistered plan of subdivision shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$500. 1946, c. 71, s. 27.

Right to
restrain.

28. In addition to any other remedy or penalty provided by law, any contravention of a by-law that implements an official plan and any contravention of section 13 may be restrained by action at the instance of the planning board of the planning area in which the contravention took place or any municipality within or partly within such planning area or any ratepayer of any such municipality, and any contravention of an order of the Minister made under section 25 may be restrained by action at the instance of the Minister or the municipality in which the contravention took place or any adjoining municipality or any ratepayer of any such municipality or adjoining municipality. 1947, c. 75, s. 12; 1949, c. 71, s. 11.

Reference
to Municipal
Board.

29.—(1) When under this Act the approval or consent of the Minister is applied for, the Minister may, and upon application therefor shall, refer the matter to the Ontario Municipal Board in which case the approval or consent, as the case may be, of the Board shall have the same force and effect as if it were the approval or consent of the Minister.

(2) When under this Act the approval of the Minister is given, the signature of the Minister or the seal of the Ontario Municipal Board, as the case may be, by which the approval is evidenced shall be conclusive evidence that the provisions of this Act leading to such approval have been complied with. 1947, c. 75, s. 13.

30. In the event of conflict between the provisions of this Act and any other general or special Act, the provisions of this Act shall prevail. 1947, c. 75, s. 14.

CHAPTER 278

The Plant Diseases Act

1. In this Act,

Interpretation.

- (a) "container" means any receptacle in which plants may be placed, stored, shipped, offered for sale or sold;
- (b) "Director" means Director of the Fruit Branch of the Department of Agriculture;
- (c) "inspector" means an inspector appointed under this Act;
- (d) "Minister" means Minister of Agriculture;
- (e) "nursery" means any place where plants are propagated for sale;
- (f) "plant" means any tree, shrub, vine or other plant or the fruit or any portion of any of them;
- (g) "plant disease" means any disease caused by any insect, virus, fungus, bacterium or other organism which is designated a plant disease in the regulations;
- (h) "Provincial Entomologist" means Provincial Entomologist appointed under this Act;
- (i) "regulations" means regulations made under this Act. R.S.O. 1937, c. 346, s. 1; 1941, c. 42, s. 1.

2. The Director shall be charged with the administration and enforcement of this Act and the regulations. R.S.O. 1937, c. 346, s. 2. Director to be in charge.

3. The Lieutenant-Governor in Council, upon the recommendation of the Minister, may appoint a Provincial Entomologist and inspectors for the carrying out of the provisions of this Act and the regulations. R.S.O. 1937, c. 346, s. 3; 1941, c. 42, s. 2. Appointment of Provincial Entomologist and inspectors.

4. The Director may delegate to the Provincial Entomologist such of his powers as he deems necessary for the proper enforcement of this Act and the regulations and may at any time terminate such delegation of power. 1941, c. 42, s. 3. Delegation of Director's powers.

Appointment of inspector by municipality.

5.—(1) The council of any municipality may, and upon receipt of a petition signed by at least 25 ratepayers, the council of any township or county shall, by by-law, appoint one or more inspectors to enforce this Act and the regulations in such municipality, and the by-law shall fix the remuneration, fees or charges to be paid to any such inspector.

Approval.

(2) No such by-law shall take effect until it is approved in writing by the Minister. R.S.O. 1937, c. 346, s. 4.

Municipal inspectors to observe Act and regulations.

6. Every inspector appointed by a municipal council under this Act shall be subject to and observe this Act and the regulations and shall be subordinate to the Provincial Entomologist and shall carry out instructions given by the Provincial Entomologist with regard to the methods to be adopted for controlling and eradicating plant diseases. 1941, c. 42, s. 4.

Permit for nursery.

7. A nursery shall not be established or operated unless a permit therefor has been obtained from the Minister. R.S.O. 1937, c. 346, s. 5.

Importation of infested plants prohibited.

8.—(1) No person shall bring or cause to be brought into Ontario for use in Ontario, any plant or fruit infested with any plant disease.

Possession of infested plants prohibited.

(2) No person shall buy, have, offer for exchange or sale, or exchange or sell any plant or fruit infested with any plant disease. R.S.O. 1937, c. 346, s. 6.

Disease control areas.

9. The Minister may, upon the petition of one or more producers of apples, prescribe plant disease control areas and may by order prescribe and provide for special methods for the control of plant diseases in any such area. 1947, c. 76, s. 1.

Right of entry.

10. Any inspector, upon production of a certificate of his appointment signed by the Director, shall have the right to enter and inspect any nursery, farm, garden, orchard, store-room or other place wherein he has reason to believe that plants are located. R.S.O. 1937, c. 346, s. 7.

Recovery of charges.

11. Any charges payable under this Act or the regulations may be recovered as a debt in any court of competent jurisdiction or may be collected from the municipality in which the charges were incurred and when the clerk of any such municipality receives notice certified to by the Provincial Entomologist or the Director as to the amount of charges payable, the name of the person entitled to such amount, the name of the person by whom the amount is due and a description of the lands in respect of which the charges were incurred, the

treasurer of the municipality shall forthwith pay the amount to the person entitled thereto and the clerk of the municipality shall enter the amount upon the collector's roll and the collector shall proceed to collect the amount from the goods and chattels and the estate or interest in the lands of the person liable in the same manner as municipal taxes are collected. 1942, c. 30, s. 1.

12. The Lieutenant-Governor in Council, upon the recommendation of the Minister, may make regulations, ^{Regulations.}

- (a) designating plant diseases within the meaning of this Act;
- (b) prescribing the duties of the Director, and the inspectors appointed under this Act;
- (c) providing for the issue and cancellation of nursery permits;
- (d) respecting the bringing into Ontario of plants or fruit likely to introduce into Ontario any plant disease;
- (e) respecting the transportation in Ontario of plants or fruit likely to be infested with any plant disease;
- (f) providing for the inspection of nurseries, farms, orchards, market gardens and all other places where plants or fruit are grown, stored or processed;
- (g) providing for the issue of certificates as to the freedom from plant disease of any nursery, farm, orchard, market garden or other place and of any plants or fruit grown therein or removed therefrom;
- (h) providing for the treatment to be given any plant, container or premises to eradicate or control or to prevent the spread of any plant disease, and by whom such treatment shall be given;
- (i) providing for the seizure, removal, destruction and confiscation of any plant, fruit or container infested with a plant disease or any plant liable to be so infested;
- (j) prescribing the charges which may be made by the Minister or by the municipality for the treatment, seizure, removal, destruction or confiscation of any plant or fruit infested with a plant disease;
- (k) providing for the reimbursement of any municipality for any part of the moneys expended by it in carrying out the provisions of this Act;

- (l) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1937, c. 346, s. 9; 1947, c. 76, s. 2.

Penalty.

13. Every person who violates any of the provisions of this Act or the regulations shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$5 and not more than \$50. R.S.O. 1937, c. 346, s. 10.

CHAPTER 279

The Police Act

1.—(1) In this Act,

Interpretation.

- (a) "association" means an association limited to one police force and having among its objects the improvement of conditions of service or remuneration of the members of a police force;
- (b) "board" means board of commissioners of police;
- (c) "Commissioner" means Commissioner of Police for Ontario;
- (d) "regulations" means regulations made under this Act.

(2) Every improvement district shall for the purposes of this Act be deemed to be a township municipality unless it is otherwise designated by the Ontario Municipal Board. 1949, c. 72, s. 1.

Act applies to improvement districts.

PART I

DIVISION OF RESPONSIBILITY

2.—(1) Every city and town shall be responsible for the policing of and maintenance of law and order in the municipality and for providing and maintaining an adequate police force in accordance with the police needs of the municipality.

Policing in cities and towns;

(2) Every village and township which, or any part of which, has a density of population and real property assessment sufficient to warrant the maintenance of a police force and which has been so designated by the Lieutenant-Governor in Council shall, with regard to the municipality or part thereof, as the case may be, be responsible for the policing and maintenance of law and order and for providing and maintaining an adequate police force in accordance with the police needs of the municipality or part thereof.

in villages and townships.

(3) Where by reason of the establishment of any enterprise or because of any other reason special circumstances or abnormal conditions exist in any area which in the opinion of the Attorney-General would render it inequitable that the responsibility for policing should be imposed on any municipality or on the Province, the Lieutenant-Governor in Council

Special circumstances.

may designate such area a special area and may require any company operating such enterprise or being the owner of such area to enter into an agreement for the policing of such area under section 51. 1949, c. 72, s. 2.

Responsi-
bility of
Ontario
Provincial
Police
Force.

3.—(1) The Ontario Provincial Police Force shall be responsible for policing all that part of Ontario that is not within a municipality or part of a municipality referred to in section 2, provided that the Ontario Provincial Police Force shall not be responsible for policing any part of Ontario in which a municipal police force is maintained.

Additional
duties of
Ontario
Provincial
Police
Force.

(2) The Ontario Provincial Police Force, in addition to performing the policing services prescribed in subsection 1, shall,

Rev. Stat.,
cc. 211, 210.

(a) maintain a traffic patrol on the King's Highway;

(b) subject to any agreement in force under *The Liquor Licence Act*, enforce the provisions of *The Liquor Licence Act*, *The Liquor Control Act* and the regulations thereunder and any other laws designated by the Attorney-General; and

(c) maintain a criminal investigation branch which shall be used to assist municipal police forces on the direction of the Attorney-General or at the request of the Crown attorney. 1949, c. 72, s. 3.

Failure
to provide
police.

4. Where the Commissioner reports to the Attorney-General that a municipality mentioned in section 2 does not maintain a police force and is not provided with police services pursuant to an agreement under section 50 or 51, the Attorney-General may take such action as he may deem necessary to secure the proper policing of the municipality by the Ontario Provincial Police Force and charge the municipality with the cost thereof which may be deducted from any grant payable out of provincial funds to the municipality, or may be recovered with costs by action in any court of competent jurisdiction as a debt due to His Majesty. 1949, c. 72, s. 4.

Non-com-
pliance with
regulations.

5.—(1) Where the Commissioner reports to the Attorney-General that a municipality mentioned in section 2, or any other municipality that maintains its own police force, is not, in the maintenance of such police force, complying with this Act and the regulations, the Attorney-General may communicate with the clerk of the municipality indicating that the provisions of this Act or the regulations are not being complied with and requesting the council of the municipality to take such steps as may be necessary to comply therewith.

Action by
Attorney-
General.

(2) Where the council neglects to comply with a request made under subsection 1, the Attorney-General may take

such action as he may deem necessary to secure the proper policing of the municipality by the Ontario Provincial Police Force and charge the municipality with the cost thereof which may be deducted from any grant payable out of provincial funds to the municipality, or may be recovered with costs by action in any court of competent jurisdiction as a debt due to His Majesty. 1949, c. 72, s. 5.

6. Where an area has been designated under subsection 3 of section 2 and the company required to enter into an agreement under section 51 refuses or neglects to enter into an agreement, the Ontario Provincial Police Force shall police the area and the cost thereof may be recovered with costs from the company by action in any court of competent jurisdiction as a debt due to His Majesty. 1949, c. 72, s. 6. Where company fails to enter into agreement.

PART II

MUNICIPAL POLICE FORCES

7.—(1) Notwithstanding any special Act, every city shall have a board and any village or township having a population in excess of 5,000 according to the last revised assessment roll and every county and town may, by by-law, constitute a board. Constitution of boards.

(2) The board, except as provided in subsection 3, shall consist of, Board, how composed.

- (a) the head of the council;
- (b) a judge of any county or district court designated by the Lieutenant-Governor in Council; and
- (c) such magistrate or Crown attorney as the Lieutenant-Governor in Council may designate.

(3) Where a vacancy occurs on the board by reason of the death of any member designated by the Lieutenant-Governor in Council, or where such member is unable to carry on his duties as a member of the board by reason of his illness or absence, the Attorney-General may in writing appoint some other judge, magistrate or Crown attorney to act as a member of the board for a period of two months from the date of such appointment, unless the Lieutenant-Governor in Council sooner appoints another member. Vacancies.

(4) The council shall provide for the payment of a reasonable remuneration, not being less than the minimum prescribed by the regulations, to the members of the board designated by the Lieutenant-Governor in Council or appointed by the Remuneration.

Attorney-General and may provide for the payment of an allowance to the head of the council. 1949, c. 72, s. 7.

Meetings.

8.—(1) The board shall in each year hold such meetings as may be prescribed by the regulations and shall at its first meeting in each year elect a chairman.

Quorum.

(2) A majority of the members of the board shall constitute a quorum.

Meetings open to public.

(3) The meetings of the board shall be open to the public unless otherwise directed by the board. 1949, c. 72, s. 8.

Repeal of by-law.

9. The by-law of a village, township, county or town constituting a board may, with the consent of the Attorney-General, be repealed and if so repealed the board shall be dissolved on the 1st day of January next after the passing of the repealing by-law. 1949, c. 72, s. 9.

By-law.

10.—(1) A by-law of the board shall be sufficiently authenticated if signed by its chairman or acting chairman, and a by-law purporting to be so signed shall be received in evidence in all courts without proof of the signature.

Certified copy of by-law.

(2) A copy of a by-law purporting to be certified by a member of the board to be a true copy, shall be received in evidence in all courts, without proof of the signature. 1949, c. 72, s. 10.

Board to summon witnesses.

11. The board shall have the same power to summon and examine witnesses on oath as to any matter connected with the execution of its duties, to enforce their attendance, and to compel them to give evidence, as is vested in any court of law in civil cases. 1949, c. 72, s. 11.

Police force.

12. The police force in a municipality having a board shall consist of a chief constable and as many constables and other police officers and such assistants as the council may deem necessary, but not fewer than the board reports to be required. 1949, c. 72, s. 12.

Term of office.

13. The members of the police force in a municipality having a board shall be appointed by and hold office during the pleasure of the board. 1949, c. 72, s. 13.

Regulations by board.

14. Subject to the approval of the Lieutenant-Governor in Council, any board may by by-law make regulations not inconsistent with regulations under section 60 for the government of the police force, for preventing neglect or abuse, and for rendering it efficient in the discharge of its duties. 1949, c. 72, s. 14.

15.—(1) Notwithstanding the provisions of section 2, the board shall be responsible for the policing and maintenance of law and order in the municipality and the members of the police force shall be subject to the government of the board and shall obey its lawful direction. Police force subject to board.

(2) Every member of the police force for the municipality, however appointed, shall from and after the passing of a by-law establishing a board be subject to the government of the board to the same extent as if appointed by the board. 1949, c. 72, s. 15. Members of police force to be subject to board.

16.—(1) Where any motor vehicle, bicycle or any personal property of any kind is in the possession of the board or a member of the police force by reason of having been stolen from its owner or by reason of having been found abandoned in any public place and the board is unable to ascertain the owner thereof, the board may cause the same to be sold or otherwise disposed of as hereinafter set forth and may retain to its own use the proceeds of such sale or disposition. Sale of stolen and abandoned property in possession of police.

(2) Where such property is perishable, the sale or disposition of the same may be made at any time without notice of any kind, and where such property is not perishable, the board may, after the expiration of three months, sell the same by public auction after at least ten days notice of the time and place of holding such auction has been given by publication once in a newspaper published in the municipality, and any such sale may be adjourned from time to time until the property is sold. Procedure for sale.

(3) This section shall be subject to *The Highway Traffic Act*. 1949, c. 72, s. 16. Rev. Stat., c. 167 not affected.

17. The board shall, on or before the 1st day of March in each year, prepare and submit to the council for its consideration and approval, its estimates of all moneys required for the year to pay the remuneration of the members of the police force and to provide and pay for offices, arms, equipment, clothing and other things for the accommodation, use and maintenance of the force. 1949, c. 72, s. 17. Submission of estimates to council.

APPOINTMENT BY MUNICIPAL COUNCIL

18.—(1) The council of every town, village, county or township, not having a board, may establish a police force consisting of one or more constables or other police officers appointed by the council. Municipalities, where no board.

(2) Where the police force has two or more members, the council may appoint one member to be chief constable. 1949, c. 72, s. 18. Chief constable.

Police
villages.

19.—(1) The trustees of a police village may establish a police force consisting of one or more constables appointed by the trustees.

Salary.

(2) Every member of the police force may be paid by salary or may keep for his own use the fees of his office as the trustees may determine.

When fees
to belong
to village.

(3) Where a member of the police force is paid by salary, the trustees may require that the fees of his office be paid to the treasurer of the township in which the village is situate or where the village comprises parts of two or more townships, to the treasurer of any or either of them for the use of the village.

Equipment.

(4) The trustees may provide and pay for offices, arms, equipment, clothing and other things for the accommodation, use and maintenance of the members of the police force. 1949, c. 72, s. 19.

Cost of
policing
by levy.

20.—(1) The cost incurred by a township in maintaining its own police force or by reason of an agreement under section 50 or 51 may, if the council deems proper, be paid by a rate levied on any area or areas defined by the council.

Exemption
of farm
lands and
buildings

(2) Whether or not any area has been defined under subsection 1 the council may exempt lands and buildings used exclusively in connection with farming from any rate levied for the purpose of paying such cost. 1949, c. 72, s. 20.

Salary and
remunera-
tion.

21. The council by which a member of a police force is appointed may provide for the payment to him of such salary or remuneration as the council may determine. 1949, c. 72, s. 21.

Fees of
salaried
police officer.

22. The council may agree with a salaried member of the police force appointed either by the council or by the board that he shall keep for his own use the fees of his office, or may require them to be paid to the treasurer for the use of the municipality. 1949, c. 72, s. 22.

Indemni-
fying police
officers.

23.—(1) The council of a municipality may pay any sum required for the protection, defence or indemnification of any member of the police force, where an action or prosecution is brought against him, and costs are necessarily incurred or damages are recovered.

In munici-
pality
having
board.

(2) In a municipality having a board such sum shall be paid only where the board certifies that the case is a proper one for such payment or indemnity. 1949, c. 72, s. 23.

24. The council may grant pecuniary aid or other assistance to the widows and children of members of the police force who are killed or die from injuries received, or from illness contracted in the discharge of their duties. 1949, c. 72, s. 24. Aid to widows and children in certain cases.

25. Where there is no board, any member of the police force who has been charged with an offence against discipline under the regulations may be suspended from office by the head of the council of the municipality pending the disposition of the charge. 1949, c. 72, s. 25. Power of suspension.

BARGAINING AND ARBITRATION

26. A member of a police force shall not remain or become a member of any trade union or of any organization that is affiliated directly or indirectly with a trade union. 1949, c. 72, s. 26. Membership in trade union forbidden.

27.—(1) When requested in writing by a majority of the full-time members of the police force, the council of the municipality or where there is a board, the board shall bargain in good faith with a bargaining committee of the members of the police force for the purpose of defining, determining and providing for remuneration, pensions or working conditions of the members of the police force other than the chief constable, except such working conditions as may be governed by any regulations made by the Lieutenant-Governor in Council under this Act. 1949, c. 72, s. 27 (1); 1950, c. 54, s. 1 (1). Bargaining.

(2) Where not less than 50 per cent of the full-time members of the police force belong to an association, any request made under subsection 1 shall be made by the association. Association.

(3) In every case the members of a bargaining committee shall be full-time members of the police force, but where, Affiliated body.

(a) the association is affiliated with any police organization; or

(b) not less than 50 per cent of the full-time members of the police force belong to any police organization,

at all meetings held with the council of the municipality or any committee thereof, or the board, as the case may be, for the purpose of bargaining, the bargaining committee may be accompanied by one member of such organization who is actively engaged in the occupation of a police officer and who shall attend in an advisory capacity only. 1949, c. 72, s. 27, (2, 3).

Pension
plans under
Rev. Stat.,
c. 243.

(4) When the request involves pensions under a pension plan established or to be established under *The Municipal Act*, notice of such request shall be given to the Department of Municipal Affairs which may determine the maximum pension benefits which may be included in any agreement, decision or award with respect to such pension plan. 1950, c. 54, s. 1 (2).

Board of
arbitration.

28.—(1) Except in the case of a police force having less than five members, where after bargaining under section 27 the council of the municipality or where there is a board, the board, or the members of the police force, or where there is a bargaining committee, the bargaining committee is or are satisfied that an agreement cannot be reached, it or they, as the case may be, may by notice in writing to the other party require all matters in dispute to be referred to a board of arbitration of three members in which case the parties shall each appoint a member and the third member, who shall be the chairman, shall be appointed by the two members so appointed.

Failure to
appoint
member.

(2) Where either party fails to appoint a member of the board of arbitration within a reasonable time, or having appointed a person who is unable or unwilling to act, fails to appoint another member within a reasonable time, the Attorney-General may, upon the written request of the other party, appoint a member in lieu thereof.

Failure to
appoint
chairman.

(3) Where the two members of the board of arbitration appointed by the parties fail, within five days of the appointment of the one last appointed, to agree upon a third member, the Attorney-General may, upon notice in writing of such failure given to him by either of them or by either of the parties, appoint the third member.

Decision
of board of
arbitration.

(4) Where upon an arbitration, a majority of the members of the board of arbitration fail to agree upon any matter, the decision of the chairman upon such matter shall be deemed to be the decision of the board of arbitration.

Costs.

(5) Each party shall assume its own costs of the arbitration proceedings and shall share the cost of the third arbitrator equally. 1949, c. 72, s. 28.

Reference to
Attorney-
General.

29.—(1) In the case of a police force having less than five members, where after bargaining under section 27, the council of the municipality or where there is a board, the board, or the members of the police force, or where there is a bargaining committee, the bargaining committee, is or are satisfied that an agreement cannot be reached, it or they, as the case may be, may refer the matter to the Attorney-General.

(2) Where a matter is referred to the Attorney-General under subsection 1, the Attorney-General may cause such inquiry to be made as he deems necessary and shall report his findings to the parties. Inquiry and report.

(3) The Attorney-General may cause the report of his findings to be published in such manner as he may deem advisable. 1949, c. 72, s. 29. Publication or report.

30.—(1) Every agreement made under section 27 and every decision or award of a majority of the members of the board of arbitration under section 28 shall be binding upon the council of the municipality, the board, where there is a board, and the full-time members of the police force. 1949, c. 72, s. 30 (1). Effect of agreement or award.

(2) Every agreement, decision or award shall remain in effect until the end of the year in which it comes into effect and thereafter shall remain in effect until replaced by a new agreement, decision or award. Duration of agreements, etc.

(3) Either party to collective bargaining which has resulted in an agreement, decision or award may proceed under sections 27, 28 and 29 at any time for a new agreement, decision or award. 1950, c. 54, s. 2. New agreements, etc.

31.—(1) An agreement, decision or award shall have effect upon the first day of the fiscal period in respect of which the council of the municipality may include provision in its estimates for any expenditures incurred in the agreement, decision or award, whether such day is before or after the date of the agreement, decision or award, unless another day is named in the agreement, decision or award in lieu thereof. Effect of agreement, decision or award.

(2) Where, pursuant to subsection 1, another day is named in an agreement, decision or award as the day upon which the agreement, decision or award is to have effect and such day is prior to the first day of the fiscal period in respect of which the council of the municipality may include provision in its estimates for any expenditures involved in the agreement, decision or award, any of the provisions involving expenses shall, notwithstanding the naming of such day, have effect from the first day of such fiscal period. 1949, c. 72, s. 31. Idem.

32. Where a request in writing is made under subsection 1 of section 27 after the 30th day of November in any year and before the 1st day of December in the year next following and no agreement, decision or award has resulted therefrom at the time when the council is passing its estimates in the year next following the last-mentioned year, the council shall make adequate provision for the payment of such expenditures as may be involved in the request. 1949, c. 72, s. 32 (1). Provision for expenditure involved in request.

PART III

PROVINCIAL SUBSIDIES FOR MUNICIPAL POLICE FORCES

Interpreta-
tion.

33. In this Part,

- (a) "member" means member of a police force;
- (b) "police force" means a police force within the meaning of Part II maintained by a city or town or by a village or township for the purpose of discharging its responsibility under subsection 2 of section 2;
- (c) "population" means population ascertained from the last revised assessment roll. 1949, c. 72, s. 33.

Grants in
aid.

34.—(1) The Treasurer of Ontario may make an annual grant out of the Consolidated Revenue Fund to every municipality having a police force, and the amount of such grant shall be equal to the following proportion of the cost of the police force for the year preceding the year in which the grant is made,

- (a) where the population of the municipality is less than 10,000, 25 per cent;
- (b) where the population of the municipality is 10,000 or more and less than 25,000, 20 per cent;
- (c) where the population of the municipality is 25,000 or more and less than 70,000, 15 per cent; and
- (d) where the population of the municipality is 70,000 or more, 10 per cent.

Parts of
villages
and town-
ships.

(2) Where a part of a village or township has a density of population and a real property assessment sufficient to warrant the maintenance of a police force and the part has been so designated by the Lieutenant-Governor in Council under subsection 2 of section 2, the population of the part or, where there is more than one part in any village or township, the total population of the parts shall be deemed to be the population of the municipality for the purposes of this section. 1949, c. 72, s. 34.

Annual
cost,
how deter-
mined.

35.—(1) For the purposes of this Part the cost of the police force shall be the total of the amounts paid during the year by the municipality in respect of,

- (a) the services of the members;
- (b) uniforms, clothing allowances, arms and personal equipment for the members;

- (c) office supplies and equipment and clerical assistance;
 - (d) *The Workmen's Compensation Act* or benefit plan approved by the Workmen's Compensation Board; Rev. Stat., c. 430.
 - (e) liability and fire insurance premiums; 1949, c. 72, s. 35 (1), cls. (a-e).
 - (f) contributions to any pension plan for the members; 1950, c. 54, s. 4 (1).
 - (g) membership in and expenses of representatives attending meetings of police associations or any police college or police school established under this Act; 1949, c. 72, s. 35 (1), cl. (g).
 - (h) communication systems, motor cars, trucks, patrol wagons, motor bicycles and other vehicles, bicycles and horses and equipment and the normal operation, maintenance and repair thereof; 1949, c. 72, s. 35 (1), cl. (h); 1950, c. 54, s. 4 (2).
 - (i) the normal operation and maintenance of premises or portions thereof used for police purposes;
 - (j) remuneration and allowances provided for in subsection 4 of section 7; 1950, c. 54, s. 4 (2).
 - (k) such matters and things as the Lieutenant-Governor in Council may prescribe. 1949, c. 72, s. 35 (1), cl. (i).
- (2) Where payment of any portion of the cost of the police force has been deferred to any subsequent year or where the money required to pay any portion of the cost of the police force has been raised by way of a loan or the issue of debentures, such portion shall, for the purposes of subsection 1, be deemed to be paid. 1949, c. 72, s. 35 (2). Interpretation.
- (3) Where a municipality provides police services in another municipality pursuant to an agreement made under section 50, Municipal policing agreements.
- (a) the municipality receiving the police services shall be deemed to have a police force and the payments made during the year under any such agreements shall be deemed to be part of the cost thereof;
 - (b) the amount of the grant shall be based upon the population of the municipality receiving the police services; and
 - (c) the municipality receiving payment for the police services shall deduct the amount thereof from the total of its cost before any claim is made by it under this Part. 1950, c. 54, s. 4 (3).

Provincial
policing
agreements.

(4) Where the Commissioner provides police services in a municipality mentioned in section 2 pursuant to an agreement under section 51, the municipality shall be deemed to have a police force and the payments made during the year under any such agreement shall be deemed to be part of the cost thereof. 1950, c. 54, s. 4 (4).

Require-
ments for
payment.

36. No grant under section 34 shall be made,

- (a) unless all members of the police force are under *The Workmen's Compensation Act* or a benefit plan approved by the Workmen's Compensation Board;
- (b) where the council of the municipality or the board is in default under Part II or under any agreement, decision or award made under the collective bargaining provisions of Part II; and
- (c) unless a pension plan established under any Act for the members is in force under which the municipality contributes an amount not less than five per cent of the amount of the salaries of the members participating in the plan. 1949, c. 72, s. 36 (1); 1950, c. 54, s. 5.

Treasurer's
statement.

37.—(1) The treasurer of a municipality making claim in any year to a grant under this Part shall, so soon as may be in the year after the cost of the police force for the preceding year has been determined, send to the Department of Municipal Affairs a statement in the form furnished by the Department showing,

- (a) that the requirements of section 36 have been met; and
- (b) the cost of the police force for the preceding year together with such particulars thereof as the Department may request.

Certificate
as to
accuracy.

(2) The Department of Municipal Affairs shall examine the statement and if it is satisfied as to the correctness thereof it shall so certify to the Treasurer of Ontario.

Reference
to Ontario
Municipal
Board.

(3) Where the Department of Municipal Affairs notifies the treasurer of the municipality that it is not satisfied as to the correctness of the statement, the council of the municipality, within 14 days of the receipt by the treasurer of the notice, may refer any matter in dispute to the Ontario Municipal Board, whose decision thereon shall be final and shall be acted upon by the Department. 1950, c. 54, s. 6.

PART IV

ONTARIO PROVINCIAL POLICE FORCE

38.—(1) There shall be a Commissioner of Police for Ontario, who shall be appointed by the Lieutenant-Governor in Council. Appointment of Commissioner of Police.

(2) The Commissioner shall have the general control and administration of the Ontario Provincial Police Force and the employees connected therewith, and of all officers specially appointed for the enforcement of any statute of Ontario, and he and all such officers and employees and the members of the Force shall be responsible to the Attorney-General. 1949, c. 72, s. 39 (1, 2). Powers and duties of Commissioner.

(3) The Commissioner or a Deputy Commissioner may hold an inquiry into the conduct of any member of the Ontario Provincial Police Force or of any officer or employee under his control and upon such inquiry shall have and may exercise all the powers and authority which may be conferred upon a person appointed under *The Public Inquiries Act*. 1949, c. 72, s. 39; 1950, c. 54, s. 8. Investigations by Commissioner. Rev. Stat., c. 308.

39.—(1) Unless otherwise provided by Order in Council, the Commissioner shall be *ex officio* a magistrate for the Province of Ontario and shall have and may exercise and perform the powers and duties of a magistrate, and may take informations and issue warrants or summonses in any city, town, county, provisional county or provisional judicial district or other locality in Ontario, and may make the same returnable in the city, town, county, provisional county, provisional judicial district or other locality in which the offence charged is alleged to have been committed. Commissioner to be ex officio magistrate.

(2) The jurisdiction conferred by subsection 1 may be exercised by the Commissioner notwithstanding that there is in the locality in which he acts, a magistrate, who, under *The Magistrates Act* or any other statute, has jurisdiction exclusive or otherwise. 1949, c. 72, s. 40. Exercise of jurisdiction. Rev. Stat., c. 219.

40.—(1) The Ontario Provincial Police Force shall consist of the Commissioner and such constables and other police officers as the Lieutenant-Governor in Council may appoint. Ontario Provincial Police Force.

(2) The Lieutenant-Governor in Council may appoint such employees as may be required in connection with the Force. 1949, c. 72, s. 41. Employees.

Duties of
members of
Force.

41.—(1) It shall be the duty of the members of the Ontario Provincial Police Force subject to this Act and the orders of the Commissioner,

- (a) to perform all duties which now are or hereafter shall be assigned to constables in relation to the preservation of the peace, the prevention of crime and of offences against the laws in force in the Province and the criminal laws of Canada and the apprehension of criminals and offenders and others who may be lawfully taken into custody;
- (b) to execute all warrants, perform all duties and services thereunder or in relation thereto which may, under the laws in force in the Province, be lawfully executed and performed by constables;
- (c) to perform all duties which may be lawfully performed by constables in relation to the escort and conveyance of convicts and other prisoners and mentally incompetent persons to and from any courts, places of punishment or confinement, hospitals or other places; and
- (d) generally to perform such duties as may from time to time be assigned to them by the Commissioner.

Municipal
by-laws.

(2) Except under the provisions of an agreement entered into under section 51, the Ontario Provincial Police Force shall not be charged with any duties under or in connection with any municipal by-laws. 1949, c. 72, s. 42.

Law En-
forcement
Fund.

42.—(1) Any money appropriated by the Legislature for the purpose of enforcing or preventing the contravention of the laws of Ontario or Canada, or of any regulation made thereunder shall be known as the Law Enforcement Fund and payments from the Fund shall be made under the direction of the Attorney-General to such persons and for such purposes as he may think proper, to be expended in such law enforcement, including the cost of the Ontario Provincial Police Force.

Payment
out of
Fund.

(2) The certificate or order of the Attorney-General that any sum of money is required to be paid out of the Fund shall be sufficient authority for the issue of a cheque by the Treasurer of Ontario for the amount named in such certificate or order, and the officer or other person to whom such cheque is issued shall account for the proper disbursement of the proceeds thereof to the Attorney-General whose approval of the account shall be final.

Expenses.

(3) Where any member of the Ontario Provincial Police Force is engaged in a matter of extradition or other special

investigation, or where he performs any act or discharges any duty with the authority and under the direction of the Attorney-General, he shall be allowed such travelling, incidental and other expenses as the Attorney-General may approve and they shall be paid out of the Fund. 1949, c. 72, s. 43.

43.—(1) The Lieutenant-Governor in Council may provide for the granting of service badges to the members of the Ontario Provincial Police Force or any class thereof and for money allowances to be paid to the members entitled to any service badge. Service badges.

(2) The money allowance shall be paid out of the Law Enforcement Fund and shall be deemed to be part of the salary of the member. 1949, c. 72, s. 44. Allowances.

PART V

GENERAL

44. Every chief constable, constable and other police officer, except a special constable or a by-law enforcement officer, shall have authority to act as a constable throughout Ontario. 1949, c. 72, s. 45. Constables empowered to act throughout Ontario.

45. The members of police forces appointed under Part II shall be charged with the duty of preserving the peace, preventing robberies and other crimes and offences, including offences against the by-laws of the municipality, and apprehending offenders, and laying informations before the proper tribunal, and prosecuting and aiding in the prosecuting of offenders, and shall have generally all the powers and privileges and be liable to all the duties and responsibilities that belong to constables. 1949, c. 72, s. 46. Duties and powers of members of police forces.

46.—(1) The Attorney-General may require the Commissioner or any other person to investigate, inquire into and report to the Attorney-General upon the conduct of any chief constable, constable, police officer, special constable or by-law enforcement officer, the administration of any police force, the system of policing any municipality, and the police needs of any municipality, Investigation and report by Commissioner.

- (a) at the request of the council of any municipality, in which case the municipality, unless the Attorney-General otherwise directs, shall pay the cost of such investigation; or
- (b) without the request of the council of a municipality, in which case the cost of such investigation shall be paid out of the Consolidated Revenue Fund.

Powers of investigator.

(2) The person directed to hold such investigation shall have all the powers and authority which may be conferred upon a person appointed under *The Public Inquiries Act*.

Rev. Stat., c. 308.

Report to be communicated to council.

(3) The report of an investigation made at the request of the council of a municipality shall be communicated by the Attorney-General to the council of such municipality. 1949, c. 72, s. 47.

Expenses of provincial police when payable by municipality.

47.—(1) The Crown attorney may request the services of the Ontario Provincial Police Force in any area for the policing of which a municipality or board is responsible and the cost of furnishing such services shall be certified by the Crown attorney or the Commissioner and, unless the Attorney-General otherwise directs, the amount so certified shall be paid by the municipality to the Treasurer of Ontario and may be deducted from any grant payable out of provincial funds to the municipality or recovered with costs by action in any court of competent jurisdiction as a debt due to His Majesty.

Advances to provincial police in districts.

(2) In a provisional judicial district the treasurer of the district may, on the written request of the Crown attorney, make an advance to any member of the Ontario Provincial Police Force for the purpose of paying reasonable and necessary expenses incurred in any criminal matter. 1949, c. 72, s. 48.

Municipality may request assistance of provincial police.

48.—(1) A board or council responsible for the policing of a municipality or part thereof, may by resolution request the Commissioner to furnish the assistance of the Ontario Provincial Police Force in maintaining law and order or investigating an offence within the municipality and the Commissioner may provide such assistance as he deems necessary.

Expenses, how payable.

(2) Where such assistance is provided in an area for the policing of which the board or municipality is responsible, the expense incurred shall be certified by the Commissioner and, unless the Attorney-General otherwise directs, the amount certified shall be paid by the municipality to the Treasurer of Ontario and may be deducted from any grant payable out of provincial funds to the municipality or recovered with costs by action in any court of competent jurisdiction as a debt due to His Majesty. 1949, c. 72, s. 49.

Obligation of municipality to provide police force.

49. The obligation of a municipality to provide and maintain a police force may be discharged by entering into an agreement under section 50 or 51. 1949, c. 72, s. 50.

Municipal policing agreements.

50. The board, or if none, the council of any municipality may by agreement with the board, or if none, the coun-

cil of another municipality, provide that the services of the members of the police force of the first-mentioned municipality shall be available in the other municipality upon such terms and conditions as are set forth in the agreement. 1950, c. 54, s. 9.

51.—(1) Subject to the approval of the Lieutenant-Governor in Council, the Commissioner may enter into an agreement with the council of any municipality for the policing of the whole or any part of the municipality, or with any company for the policing of any area, by the Ontario Provincial Police Force.

Agreement for provincial police to police municipalities.

(2) In municipalities having a board no agreement shall be entered into under this section except at the request of the board.

No agreement except on request of board.

(3) No agreement shall be entered into under this section with a municipality at a cost which is less than the aggregate of police salaries paid by the municipality or where in the opinion of the Commissioner such an agreement is sought for the purpose of defeating the collective bargaining provisions of this Act.

Rates of pay to be considered.

(4) Where an agreement has been entered into under subsection 1, the members of the Ontario Provincial Police Force assigned to duty in the municipality or area shall be charged with the duty of preserving the peace, preventing crime and other offences, including offences against the by-laws of the municipality, and shall perform such other duties as may be specified in the agreement.

Duties.

(5) The moneys received from a municipality or company pursuant to an agreement entered into under subsection 1 shall be paid into the Consolidated Revenue Fund.

Moneys to be paid into Consolidated Revenue Fund.

(6) Where a municipality is entitled to receive fines or the proceeds of estreated recognizances because of prosecutions instituted by constables appointed by the council or by a board and the municipality has entered into an agreement with the Commissioner or with another municipality to furnish police services, such members of the Ontario Provincial Police Force or of the police force of the other municipality as are assigned for duty under the agreement shall, for the purposes of the disposition of any such fines or proceeds, be deemed to be constables of the first-mentioned municipality. 1949, c. 72, s. 52.

Fines, etc.

52. Where pursuant to section 51 the Commissioner enters into an agreement with a municipality having a board, sections 12, 13, 14 and 15 shall not apply but the board shall act in an advisory capacity to the senior officer of the Ontario Provincial

When board to act in advisory capacity.

Police Force in the municipality and to the Commissioner with respect to the policing of the municipality. 1949, c. 72, s. 53.

Oath.

53.—(1) Every person appointed to be a chief constable, constable or other police officer shall before entering on the duties of his office, and every special constable when thereunto required, take and subscribe the following oath:

I,....., do swear that I will well and truly serve Our Sovereign Lord the King in the office of constable (*or as the case may be*) for the.....of.....without favour or affection, malice or ill-will; and that to the best of my power, I will cause the peace to be kept and preserved, and prevent all offences against the persons and properties of His Majesty's subjects; and that while I continue to hold the said office, I will, to the best of my skill and knowledge, discharge all the duties thereof faithfully according to the law. So help me God.

C.D.

Sworn, etc.

Disposition of oath.

(2) The oath of every member of a municipal police force shall be deposited in the office of the clerk of the municipality or of the secretary of the board of the municipality for which he is appointed. 1949, c. 72, s. 54.

Active militia, calling out.

54. The expenses of and incidental to the calling out of the active militia in aid of the civil powers shall be paid by the corporation of the city or separated town wherein their services are required, and in the case of other municipalities by the county. 1949, c. 72, s. 55.

Policing building or area beyond boundaries of municipality.

55. A municipality having any interest in a building or area beyond the boundaries of the municipality may undertake and agree to pay the whole or a portion of the cost of policing such building or area. 1949, c. 72, s. 57.

Special constables.

56.—(1) The Commissioner, a county court judge, a district court judge or a magistrate may, by written authority, appoint any person to act as special constable for such period, area and purpose as to him may seem expedient.

Notice of appointment.

(2) Where an appointment is made by a judge or a magistrate, written notice of the appointment and the circumstances which render it expedient shall be forthwith transmitted to the Commissioner.

Suspension or termination of services.

(3) The judge or magistrate who has appointed a special constable, or the Commissioner, may suspend or terminate the services of such constable and written notice of the suspension or termination shall, if made by the judge or magistrate, be forthwith transmitted to the Commissioner.

Oath of special constable.

(4) Every authority appointing a special constable shall require him to take and subscribe an oath similar to that set out in subsection 1 of section 53. 1949, c. 72, s. 58.

57. The council of any municipality or the trustees of any police village may appoint one or more by-law enforcement officers who shall have the authority of a constable with respect to the enforcement of the by-laws of the municipality or police village, as the case may be. 1949, c. 72, s. 59.

58.—(1) Every person, including a member of a police force who, By-law enforcement officer.
Causing disaffection, etc.

- (a) causes or attempts to cause, or does any act calculated to cause disaffection among the members of a police force;
- (b) induces or attempts to induce, or does any act calculated to induce a member of a police force to withhold his services or commit a breach of discipline; or
- (c) being a member of a police force, withholds his services,

shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$500 or to imprisonment for a term of not more than one year, or both.

(2) No prosecution shall be instituted under this section without the consent of the Attorney-General. Consent of Attorney-General.

(3) Where a person convicted of an offence under subsection 1 is a member of a police force, he shall, Disqualification and forfeiture of rights.

- (a) cease to be a member and shall not thereafter be appointed to any police force; and
- (b) subject to any agreement with or by-law of the municipality, forfeit all pension rights under any pension scheme of such police force except his right to receive such moneys as he has paid into any fund under the scheme with interest at the rate payable under the scheme. 1949, c. 72, s. 60.

59. The Commissioner may establish, maintain and operate a central police college for the training of members of police forces and may provide for such regional police schools and travelling instructors as he may deem advisable. 1949, c. 72, s. 61. Police college and schools.

REGULATIONS

60.—(1) The Lieutenant-Governor in Council may make regulations, Regulations.

- (a) for the government of police forces and governing the conduct and duties of members of police forces;

- (b) prescribing the qualification and age limits of persons to be appointed to police forces;
- (c) prescribing the minimum salary or other remuneration and allowances which shall be payable to members of police forces;
- (d) prescribing the minimum remuneration which shall be paid by a municipality to the members of boards who are designated by the Lieutenant-Governor in Council or appointed by the Attorney-General;
- (e) prescribing the minimum number of members of police forces that shall be employed either upon a basis of population, area, property assessment, or any combination thereof or upon any other basis;
- (f) prescribing requirements respecting clothing and equipment to be furnished by municipalities;
- (g) prescribing courses of training for members of police forces;
- (h) providing for or granting financial aid to and the administration and course of study in a police training school;
- (i) prescribing or regulating the number of meetings to be held by boards and the times and places at which they are to be held;
- (j) prescribing the records, returns, books and accounts to be kept and made by police forces or the members thereof;
- (k) prescribing the method of accounting for fees and costs and other money which comes into the hands of members of police forces;
- (l) respecting any matter relating to the Commissioner and the Ontario Provincial Police Force as may be deemed necessary;
- (m) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act.

Regulations
may be
general or
particular.

(2) Any regulations made under the authority of subsection 1 may be general or particular in their application. 1949, c. 72, s. 62.

CHAPTER 280

The Pounds Act

1. Except so far as varied by any by-law passed under paragraphs 3 to 6 of subsection 1 of section 388 of *The Municipal Act*, this Act shall be in force in every city, town, township and village in Ontario. R.S.O. 1937, c. 337, s. 1.

Scope of Act save as varied by by-laws. Rev. Stat., c. 243.

2. The owner or occupant of any land shall be responsible for any damage caused by any animal under his charge and keeping, as though such animal were his own property, and the owner of any animal not permitted to run at large by the by-laws of the municipality shall be liable for any damage done by such animal, although the fence enclosing the premises of the complainant was not of the height required by such by-laws. R.S.O. 1937, c. 337, s. 2.

Liability of owners and others for damage done.

3.—(1) Damages shall not be recoverable in respect of injuries committed upon any land in a provisional judicial district by horses, cattle, sheep or swine straying on such land unless the animal so straying was running at large contrary to a municipal by-law.

In provisional judicial districts.

(2) Where there is no such by-law in force in the municipality or where such trespass was committed upon land in any part of such district not included in an organized municipality, no such damages shall be recoverable unless the animal has broken through or jumped over a fence then being in reasonably good repair and of the height of four and one-half feet.

Unless animal broke through or jumped over fence.

(3) This section shall not apply to breachy or unruly animals. R.S.O. 1937, c. 337, s. 3.

Exception as to breachy animals.

4. No bull over the age of 10 months nor any swine shall be allowed to run at large in any part of such district not included in an organized municipality. R.S.O. 1937, c. 337, s. 4.

Bulls and swine not to run at large.

5. The owner of any bull or swine running at large contrary to section 4 shall be liable in damages for all injuries committed by such animal or animals, and also shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$10. R.S.O. 1937, c. 337, ss. 5, 23 (2).

Owner of bull liable for damages.

What animals to be impounded.

Poultry.

Notice to clerk as to animals impounded.

When the common pound is not safe.

Statement of demand to be delivered to pound-keeper by impounder.

Form of agreement with pound-keeper.

Release of animal on security being furnished.

When animal may be retained by distrainer.

6. If not previously replevied, the pound-keeper shall impound any horse, bull, ox, cow, sheep, goat, pig, or other cattle, geese or other poultry, distrained for unlawfully running at large or for trespassing and doing damage, delivered to him for that purpose by any person resident within his division who has distrained the same; or if the owner of geese or other poultry refuses or neglects to prevent the same from trespassing on his neighbour's premises after a notice in writing has been served upon him of their trespass, he shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$10. R.S.O. 1937, c. 337, ss. 6, 23 (2).

7. Where any animal has been impounded, the pound-keeper shall, within 24 hours, deliver to the clerk of the municipality a notice in writing containing a description of the colour, age and natural and artificial marks of the animal as nearly as may be. R.S.O. 1937, c. 337, s. 7.

8. When the common pound of the municipality or place wherein a distress has been made is not secure, the pound-keeper may confine the animal in any enclosed place within the limits of the pound-keeper's division within which the distress was made. R.S.O. 1937, c. 337, s. 8.

9.—(1) The person distraining and impounding the animal shall, at the time of the impounding, deposit poundage fees, if demanded, and within 24 hours thereafter deliver to the pound-keeper duplicate statements in writing of his demands against the owner for damages, if any, not exceeding \$20, done by such animal, exclusive of poundage fees, and shall also give his written agreement, with a surety if required by the pound-keeper, in the following form or in words to the same effect:

I (*or we, as the case may be*) do hereby agree that I (*or we*) will pay to the owner of the (*describing the animal*) by me (*A.B.*) this day impounded, all costs to which the said owner may be put in case the distress by me the said (*A.B.*) proves to be illegal, or in case the claim for damages now put in by me the said (*A.B.*) fails to be established.

(2) The owner of an animal impounded shall at any time be entitled to it, on demand made therefor, without payment of any poundage fees, on giving satisfactory security to the pound-keeper for all costs, damages and poundage fees that may be established against him. R.S.O. 1937, c. 337, s. 9.

10.—(1) If the animal distrained is a horse, bull, ox, cow, sheep, goat, pig or other cattle, and if the same is distrained by a resident of the municipality for straying within his premises, instead of delivering the animal to the pound-keeper, he may retain the animal in his own possession, provided he

makes no claim for damages done by the animal, and duly gives the notices hereinafter required.

(2) If the owner is known he shall forthwith give to him notice in writing of having distrained the animal. Notice to owner if known.

(3) If the owner is unknown, the person distraining shall, within 48 hours, deliver to the clerk of the municipality a notice in writing of having distrained the animal, containing a description of its colour, age and natural and artificial marks, as nearly as may be. If unknown, notice to clerk of municipality.

(4) The clerk on receiving the notice shall forthwith enter a copy thereof in a book to be kept by him for that purpose, and shall post it or a copy thereof in some conspicuous place on or near the door of his office, and keep the same so posted for at least one week, unless the animal is sooner claimed by the owner. Duty of clerk thereon.

(5) If the animal or animals distrained at the same time is or are of the value of \$10 or more, the distrainer shall cause a copy of the notice to be published in a newspaper in the county or district once a week for three successive weeks. If animals worth \$10 or over.
R.S.O. 1937, c. 337, s. 10.

11. If an animal is impounded, notices for the sale thereof shall be given by the pound-keeper or person who impounded it within 48 hours afterwards, but no pig or poultry shall be sold until after four clear days, nor any horse or other cattle till after eight clear days from the time of impounding the same. R.S.O. 1937, c. 337, s. 11. Sale after notice.

12. If the animal is a pig, goat or sheep and is not impounded, but is retained in the possession of the person distraining it, the notices for the sale thereof shall not be given for one month, and if the animal is a horse or other cattle, the notices shall not be given for two months after the animal is distrained. R.S.O. 1937, c. 337, s. 12. If animal is not impounded, but retained.

13. The notices of sale shall be posted up for three clear successive days in three public places in the municipality, and shall specify the time and place at which the animal will be publicly sold, if not sooner replevied or redeemed by the owner or some one on his behalf, paying the penalty imposed by law, if any, the amount of the injury, if any, claimed or decided to have been committed by the animal to the property of the person who distrained it, together with the lawful fees and charges of the pound-keeper and also of the fence-viewers, if any, and the expenses of the animal's keeping. R.S.O. 1937, c. 337, s. 13. Notice of sale unless redeemed.

Food to be
furnished
impounded
animal.

14. Every pound-keeper, and every person who impounds or confines, or causes to be impounded or confined, any animal in any common pound or in any open or close pound, or in any enclosed place, shall daily furnish the animal with good and sufficient food, water and shelter, during the whole time that such animal continues impounded or confined. R.S.O. 1937, c. 337, s. 14.

Recovery of
expenses.

15.—(1) Every such person who furnishes the animal with food, water and shelter, may recover the value thereof from the owner of the animal, and also a reasonable allowance for his time, trouble and attendance in the premises.

Procedure
for
recovery.

(2) Such value and allowance may be recovered, with costs, by summary proceeding before any justice of the peace within whose jurisdiction the animal was impounded, in like manner as fines, penalties or forfeitures for the breach of any by-law of the municipality may by law be recovered and enforced by a single justice of the peace and the justice shall ascertain and determine the amount of such value and allowance when not otherwise fixed by law, adhering, so far as applicable, to the tariff of pound-keepers' fees and charges established by the by-laws of the municipality. R.S.O. 1937, c. 337, s. 15.

Other mode
of en-
forcing.

16. The pound-keeper, or person so entitled to proceed may, instead of such summary proceeding, enforce the remuneration to which he is entitled in manner hereinafter mentioned. R.S.O. 1937, c. 337, s. 16.

Procedure
for sale and
disposal of
proceeds.

17. If it is proved by an affidavit sworn before a justice of the peace, that the proper notices had been duly posted and published, then if the owner or some one for him does not before the sale of the animal, replevy or redeem the same, the pound-keeper who impounded the animal, or if the person who distrained it did not deliver it to a pound-keeper, but retained it in his own possession, any pound-keeper of the municipality may publicly sell the animal to the highest bidder, at the time and place mentioned in the notices, and after deducting the penalty and the damages, if any, and the fees and charges, shall apply the proceeds in discharge of the value of the food and nourishment, loss of time, trouble and attendance so supplied, and of the expenses of driving or conveying and impounding or confining the animal, and of the sale and attending the same, or incidental thereto, and of the damage when legally claimable, not exceeding \$20, done by the animal to the property of the person by whom or at whose instance it was distrained, and shall return the surplus, if any, to the original owner of the animal, or if not claimed by him within three months after the sale, the pound-keeper shall pay such surplus to the treasurer of the municipality. R.S.O. 1937, c. 337, s. 17.

18.—(1) If the owner, within 48 hours after the delivery of the statements provided for in section 9, disputes the amount of damages so claimed, the amount shall be decided by the majority of three fence-viewers of the municipality, one to be named by the owner of the animal, one by the person distraining or claiming damages, and the third by the pound-keeper. Disputes regarding demand for damages, how determined.

(2) The fence-viewers or any two of them shall, within 24 hours after notice of their appointment, view the fence and the ground upon which the animal was found doing damage, and determine whether or not the fence was a lawful one according to the statutes or by-laws in that behalf at the time of the trespass and if it was a lawful fence, or if the animal was one not permitted to run at large by the by-laws of the municipality, they shall appraise the damages committed, and, within 24 hours after having made the view, shall deliver to the pound-keeper a written statement signed by at least two of them of their appraisal and of their lawful fees and charges. Fence-viewers to view and appraise damage.

(3) If in the case of an animal permitted to run at large, the fence-viewers decide that the fence was not a lawful one, they shall certify the same in writing under their hands, together with a statement of their lawful fees to the pound-keeper, who shall, upon payment of all lawful fees and charges, deliver such animal to the owner if claimed before the sale thereof, but if not claimed, or if such fees and charges are not paid, the pound-keeper, after due notice, as required by this Act, shall sell the animal in the manner before mentioned at the time and place appointed in the notices. R.S.O. 1937, c. 337, s. 18. Where fence not lawful.

19. If a pound-keeper or person who impounds or confines, or causes to be impounded or confined any animal, refuses or neglects to provide and supply the animal with good and sufficient food, water and shelter, he shall be guilty of an offence and shall be liable on summary conviction to a penalty, for every day during which he is so in default, of not less than \$1 and not more than \$4. R.S.O. 1937, c. 337, ss. 19, 23 (2). Penalty for pound-keeper refusing to feed animal impounded.

20. Every fence-viewer who neglects his duty under this Act shall be guilty of an offence and on summary conviction shall be liable to a penalty of \$2. R.S.O. 1937, c. 337, ss. 20, 23 (2). Penalty for neglect of duty by fence-viewers.

21. Every pound-keeper and every person who distrains any animal under section 10 shall, on or before the 15th day of January in every year, file with the clerk of the municipality Statement to be filed with clerk by pound-keeper or distrainor.

a statement for the year ending on the 31st day of December next preceding showing,

- (a) the number of animals impounded or distrained, as the case may be;
- (b) the number of animals sold and the amounts received;
- (c) the sum received as poundage fees and cost of keep by the pound-keeper or party distraining;
- (d) the damages paid by any party;
- (e) all disbursements and to whom paid;
- (f) any other receipts and expenditures in connection therewith. R.S.O. 1937, c. 337, s. 21.

Certifying
statement.

22. The statement shall be certified to by the pound-keeper or the person distraining as a true and accurate statement for the year ending on the 31st day of December next preceding. R.S.O. 1937, c. 337, s. 22.

Penalty for
neglect to
comply with
Act.

23. Every pound-keeper or other person required to file such return who neglects or refuses to file it on or before the 15th day of January in any year, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$10. R.S.O. 1937, c. 337, s. 23.

Penalties,
how to be
applied.

24. One-half of every penalty recovered under this Act shall be paid to the treasurer of the local municipality in which the offence was committed, and one-half to the private prosecutor, but where the information is laid by an officer of the municipality, the whole of the penalty shall be payable to the treasurer. R.S.O. 1937, c. 337, s. 24.

CHAPTER 281

The Power Commission Act

1. In this Act, unless the contrary intention appears, Interpre-
tation.
- (a) "advisory council" means The Ontario Hydro-Electric Advisory Council;
 - (b) "Commission" means The Hydro-Electric Power Commission of Ontario;
 - (c) "land" means real property of whatsoever nature or kind, and includes tenements, hereditaments and appurtenances, and any estate, term, easement, right or interest in, to, over, under or affecting land;
 - (d) "owner" includes mortgagagee, lessee, tenant, occupant, or any person entitled to a limited estate or interest, and a guardian, committee, executor, administrator or trustee in whom land or any property or interest therein is vested;
 - (e) "power" includes hydraulic, electrical, steam, gas or other power and also includes energy;
 - (f) "supply" includes delivery, dealing in, and sale;
 - (g) "works" includes all property, plant, machinery, installations, materials, devices, fittings, apparatus, appliances and equipment constructed, acquired or used in the generation, transformation, transmission, distribution, delivery, sale or use of hydraulic, electrical, steam, gas or other power or energy;
 - (h) if a power is conferred or a duty imposed on the Commission, the power may be exercised and the duty shall be performed from time to time as occasion requires. R.S.O. 1937, c. 62, s. 1; 1944, c. 46, s. 1.

PART I

THE COMMISSION

2.—(1) The Commission shall continue to be a body corporate, and shall consist of three persons appointed by the Lieutenant-Governor in Council, two of whom may be members, and one of whom shall be a member, of the Executive Council. R.S.O. 1937, c. 62, s. 2. Commission.

Quorum. (2) Two members of the Commission shall constitute a quorum. R.S.O. 1937, c. 62, s. 3, *part*.

Chairman. **3.**—(1) The Lieutenant-Governor in Council may appoint one of the members of the Commission to be chairman and may appoint another member of the Commission to be vice-chairman of the Commission. R.S.O. 1937, c. 62, s. 3, *part*; 1946, c. 73, s. 1 (1).

Powers of vice-chairman. (2) In case of the absence or illness of the chairman or of there being a vacancy in the office of chairman, the vice-chairman shall act as and have all the powers of the chairman. 1946, c. 73, s. 1 (2).

Tenure of office. **4.** Every person appointed to the Commission shall hold office during pleasure, and the Lieutenant-Governor in Council, upon the death, resignation or removal from office of any member of the Commission, may appoint some other person in his place. R.S.O. 1937, c. 62, s. 4.

Remuneration of Commissioners. **5.**—(1) An amount not exceeding \$45,000 may be paid annually for the services of the chairman and the other members of the Commission, who shall receive from that amount such sums as may be determined by the Lieutenant-Governor in Council, and such sums shall be deemed to be part of the administration expenses of the Commission.

Seat in Assembly not vacated. Rev. Stat., c. 202. (2) Notwithstanding anything in *The Legislative Assembly Act*, the appointment of the chairman or of any other member of the Commission, if a member of the Assembly, shall not be avoided by reason of the payment to him or the acceptance by him of any salary or other remuneration under this Act, nor shall he thereby vacate or forfeit his seat or incur any of the penalties imposed by that Act for sitting and voting as a member of the Assembly. R.S.O. 1937, c. 62, s. 5.

Officers and employees. **6.**—(1) The Commission may appoint and employ upon such terms of employment as it deems desirable a general manager, chief engineer, secretary and such other officers and employees as it may deem requisite. 1949, c. 73, s. 1.

Apportionment of salaries and expenses. (2) The salaries, remuneration and expenses of persons appointed or employed by the Commission, as well as any other expenses of the Commission, shall be apportioned by the Commission among, and shall be chargeable to, the various works and undertakings carried on by the Commission upon which such persons are employed, but any portion of such salaries, remuneration and expenses which are not properly chargeable to such works or undertakings and which are earned or incurred in the performance of work or services

other than those rendered in respect of works or undertakings of the Commission under contract with municipal corporations shall be chargeable to and payable out of such moneys as may be appropriated for that purpose by the Legislature.

(3) Expenditure heretofore or hereafter incurred by the Commission,

- Certain expenditures to be included as part of cost of supplying power.
- (a) for works or services in carrying out the directions of the Lieutenant-Governor in Council or for which the Commission has had other proper authority and which have not already been included in the cost of power to municipalities under contract with the Commission but which, in the opinion of the Commission, have proved or may ultimately prove beneficial to municipal corporations under contract with the Commission for a supply of power, or to municipal corporations which may from time to time thereafter enter into such contracts;
 - (b) deemed necessary or desirable by the Commission in the interests of municipal corporations then or that may thereafter be under contract with the Commission for a supply of power, in carrying on, promoting or extending the operations of the Commission in connection with the generation, distribution or supply of power or for any work or service deemed by the Commission incidental thereto,

may be included by the Commission as part of the cost of supplying electrical power or energy to any of such corporations, and shall be apportioned by the Commission as provided in this section and section 74.

(4) The apportionment by the Commission of such salaries, remuneration and expenses shall be final. R.S.O. 1937, c. 62, s. 6 (2, 3). Apportionment to be final.

(5) Without the consent of the Attorney-General no action of any kind whatsoever shall be brought against the Commission, and without the consent of the Attorney-General no action of any kind whatsoever shall be brought against any member of the Commission for anything done or omitted by him in the exercise of his office. 1946, c. 73, s. 2 (1). No action against Commission without consent of Attorney-General.

(6) Neither the Province nor the Commission nor any member thereof shall incur any liability by reason of any error or omission in any estimate, plan or specification prepared or furnished by the Commission. R.S.O. 1937, c. 62, s. 6. (5). Non-liability for errors in estimates, plans, etc.

7.—(1) The Ontario Hydro-Electric Advisory Council shall continue, and shall consist of five members appointed by Advisory Council.

the Lieutenant-Governor in Council each of whom shall hold office for two years from the date of his appointment or such other period as the Lieutenant-Governor in Council may prescribe and every such member shall be eligible for re-appointment.

Presiding officer.

(2) The members of the advisory council shall elect from amongst themselves a presiding officer whose term of office shall be one year, and who shall be eligible for re-election.

Meetings.

(3) The advisory council shall meet on the call of its presiding officer on three days written notice, and also whenever requested to do so by the Commission on similar notice.

Reports.

(4) The advisory council shall make a report for the consideration and assistance of the Commission upon every matter submitted to the advisory council by the Commission and upon any matter relative to the purposes of the Commission upon which the members of the advisory council deem it advisable to report.

Remuneration.

(5) The members of the advisory council shall be paid such per diem allowance and travelling expenses as the Lieutenant-Governor in Council shall from time to time decide.

Assistance.

(6) The Commission may provide the advisory council with such professional, technical, secretarial and other assistance as the Commission may see fit, and the cost thereof shall be deemed to be part of the administration expenses of the Commission.

Unqualified persons.

(7) No senator or member of the House of Commons of Canada, and no member of the Assembly, and no person not entitled to vote at the election of members of the Assembly shall be eligible to be a member of the advisory council.

Termination of appointment.

(8) The Lieutenant-Governor in Council may terminate the appointment of any member who in his opinion is incapable of performing his duties.

Council may act notwithstanding vacancy.

(9) The advisory council may act notwithstanding any vacancy in its membership and three members shall constitute a quorum at any meeting. 1944, c. 46, s. 2.

Fiscal year.

8. The fiscal year of the Commission shall include the period from the 1st day of January to the 31st day of December in the same year. 1950, c. 55, s. 1.

Annual report.

9.—(1) The Commission shall after the close of each fiscal year file with the Provincial Secretary an annual report upon the affairs of the Commission.

(2) The annual report shall be signed by the chairman or vice-chairman of the Commission. Signing of report.

(3) The Provincial Secretary shall submit the report to the Lieutenant-Governor in Council and shall then lay the report before the Assembly if it is then in session, or if not, at the next ensuing session. 1950, c. 55, s. 2. Tabling of report.

10.—(1) The accounts of the Commission shall, upon the direction of the Lieutenant-Governor in Council, be from time to time, and at least once every year, audited and reported upon by an auditor or auditors named in the direction of the Lieutenant-Governor in Council. Audit of accounts.

(2) The expenses of such audits shall be fixed by the Commission, with the approval of the Lieutenant-Governor in Council, and shall be payable by the Commission as part of the costs of administration of the Commission. R.S.O. 1937, c. 62, s. 8. Expenses of audits.

11. The income of the Commission shall be applied by the Commission, Application of income of Commission.

- (a) to meet the necessary operating expenses;
- (b) to the preservation, improvement, supervision, renewal, repair, maintenance and insurance of its works;
- (c) to the payment of the remuneration and expenses of the commissioners and the officers and others employed by the Commission;
- (d) for the operations of the Commission under sections 55 and 68 and to meet obligations, charges and expenses arising from time to time in the course of such operations;
- (e) to meet interest expense and expenses of debt service and interest credited on the balances remaining from time to time to the credit of reserve accounts established under this Act;
- (f) to provide reserves authorized by sections 13, 14, 15 and 17; and
- (g) to such other purposes as may be authorized or required by this Act. 1946, c. 73, s. 4; 1948, c. 69, s. 1.

12. All special funds and the income and revenue thereof and all moneys and revenues which now are in or hereafter come into the hands of the Commission, whether as agent, trustee, owner or otherwise, shall form one fund to be known "General fund".

as the general fund, and the Commission shall have power to make any and all expenditures out of the general fund for the purposes and objects of the Commission without regard to the special trusts or purposes under which the general fund or any part thereof may come into its hands, and the Commission shall account for and pay out of the general fund all moneys for which it is so accountable. R.S.O. 1937, c. 62, s. 10.

Reserve
accounts.

13.—(1) The Commission may establish and maintain reserve accounts,

- (a) to provide for the renewal, reconstruction and repair of works constructed or operated by the Commission;
- (b) to meet any expenditures or costs caused by or arising from injury to, or destruction, obsolescence or loss of use of any works or other property of the Commission and to meet other contingencies arising in the operations of the Commission and to provide for such part of the cost of properties to be acquired or which have been acquired as is not allocated to specific works; and
- (c) to provide a reserve as insurance against loss or damage to any property of the Commission or loss or damage to the persons or property of others caused by or arising from the works or operations of the Commission,

and may place to the credit of such reserve accounts and expend, use, apply, utilize and appropriate therefrom for the purposes of this section such amounts as may in the opinion of the Commission be sufficient for the purposes of this section.

Interest.

(2) The Commission may place to the credit of such reserve accounts interest at such rates as the Commission shall deem equitable and just upon the balances remaining from time to time to the credit of such reserve accounts. 1946, c. 73, s. 5.

Transfer to
frequency
standardiza-
tion reserve
account.

(3) The Commission may from time to time transfer from its reserve account established under clause *b* of subsection 1 such amounts as it deems advisable, and place the same to the credit of the frequency standardization reserve account. 1948, c. 69, s. 2.

Frequency
standardiza-
tion reserve
account.

14.—(1) An account to be known as the frequency standardization reserve account may be opened and maintained on the books of the Commission and the Commission may place to the credit of such account,

- (a) such amounts as the Commission transfers under subsection 3 of section 13 from the reserve account

established under clause *b* of subsection 1 of section 13;

- (*b*) such amounts as the Commission collects pursuant to clause *e* of section 26;
- (*c*) such amounts as may be made available for the credit of this account pursuant to subsection 2 of section 68;
- (*d*) such additional amounts as in the opinion of the Commission may be necessary for the purposes of this section;
- (*e*) interest at such rates as the Commission deems equitable and just upon balances remaining from time to time to the credit of the account. 1948, c. 69, s. 3, *part*.

(2) Any or all of the amounts at the credit of the frequency standardization reserve account may be used in the discretion of the Commission for meeting any expenditure or costs made or incurred under section 26, 27 or 28, except expenditure or costs made or incurred in respect to works held by it under section 84. 1948, c. 69, s. 3, *part*; 1949, c. 73, s. 3. Use of moneys.

15.—(1) An account to be known as the stabilization fund account may be opened and maintained on the books of the Commission and the Commission may place to the credit of that account, Stabilization fund account.

- (*a*) such amounts as the Commission may determine and collect for the purposes of this section from its customers;
- (*b*) interest at such rates as the Commission deems equitable and just upon balances remaining from time to time to the credit of the account. R.S.O. 1937, c. 62, s. 12 (1), cls. (*a*, *b*); 1939, c. 35, s. 1 (1).

(2) Any or all of the moneys in the stabilization fund account may be used in the discretion of the Commission for determining, and for adjusting and apportioning (including making equitable and stabilizing) the amounts payable to the Commission by persons or municipal corporations. Use of moneys.

(3) The costs and expenses incurred by the Commission which, in the opinion of the Commission, are for the protection or advancement of the interests in the undertakings under its supervision or control and are not properly chargeable to any system or to any municipal corporation under contract with the Commission may be charged by the Commission to the stabilization fund account. R.S.O. 1937, c. 62, s. 12 (3, 4). Items chargeable to account.

Investment
of funds in
Government
securities.

16. The Commission may, in its discretion, invest any funds not required in carrying out its objects in the debentures or other securities of the Dominion of Canada or of the Province of Ontario, or in securities guaranteed as to principal and interest by either of them. 1946, c. 73, s. 6.

Sinking
fund.

17. The Commission shall set apart annually as a sinking fund,

- (a) such sums as are received by the Commission from municipal corporations under clause *c* of section 74, and section 75;
- (b) such sums as are appropriated by the Commission for sinking fund purposes out of the revenues received from other corporations and persons under contract with the Commission for a supply of power. R.S.O. 1937, c. 62, s. 14.

Application
of funds
set apart as
sinking fund.

18. All funds set apart by the Commission as a sinking fund under section 17 shall be used or employed,

- (a) towards repayment of advances made by the Province of Ontario to the Commission as provided in section 49 and towards the retirement of other indebtedness incurred or assumed by the Commission;
- (b) to restore reserves or other funds of the Commission utilized for the payment of the cost of works; and
- (c) to purchase and hold for sinking fund purposes securities in which the Commission is authorized to invest under section 16. 1946, c. 73, s. 7.

Postpone-
ment of
sinking
fund
collection.

19.—(1) The Lieutenant-Governor in Council may authorize the Commission to postpone the collection or setting apart of any sums on sinking fund account to provide for the cost of any works newly constructed, acquired or performed for such period, not exceeding 10 years, as may be deemed advisable.

Interpre-
tation.

(2) For the purposes of this section, "works", in addition to the meaning given to it in section 1, includes preliminary reports, surveys, investigations, engineering, accounting or organization work or service, or any other work or service in connection with or incidental to any proposed construction or development. R.S.O. 1937, c. 62, s. 16.

PENSION FUND

Pension and
Insurance
Fund.

20.—(1) There shall be a fund known as The Pension and Insurance Fund of The Hydro-Electric Power Commission of

Ontario, in this section referred to as the "fund", for the payment of benefits by way of pensions or superannuation allowances to, or allowances upon the death or disability of, such employees of the Commission as the Commission may determine in accordance with this section and any regulations made under this section, and for the purposes of this section "employee" includes any person in the employ of the Commission on or after the 1st day of November, 1947.

(2) The fund shall consist of the moneys, securities and other assets in or credited to the fund in accordance with law and such amounts as may be contributed thereto by the Commission and its employees. Composition of fund.

(3) The contributions of the employees towards the cost of the benefits mentioned in subsection 1 shall be as prescribed by the regulations made under this section and be paid into the fund in accordance therewith. Contributions of employees.

(4) The Commission shall contribute towards the cost of the benefits mentioned in subsection 1 the amount of the difference between the amount of the contributions of the employees and the amount of the cost of the benefits as determined by actuarial valuations. Contributions of Commission.

(5) The Commission may enter into agreement with one or more insurers licensed under *The Insurance Act*, for, Insurance. Rev. Stat., c. 183.

- (a) providing insurance by way of death or disability benefits for such employees of the Commission as the Commission may determine in accordance with this section and any regulations made hereunder; and
- (b) payment by the Commission of the cost of the benefits mentioned in clause a,

and the cost referred to in clause b shall be charged by the Commission against the fund.

(6) Subject to the approval of the Lieutenant-Governor in Council, the Commission may make regulations, Regulations.

- (a) establishing The Pension and Insurance Plan of The Hydro-Electric Power Commission of Ontario, herein called the "plan";
- (b) prescribing the class or classes of employees who are eligible to be members of the plan, the time at which membership shall commence, and the period of time thereafter within which an employee may elect not to be a member of the plan;
- (c) providing for the payment out of the fund of the contributions made by any employee to the fund or

to either of the funds superseded by the fund where the employee elects not to be a member of the plan;

- (d) prescribing the period of employment with the Commission alone, or with a previous employer and the Commission, that shall constitute service for the purpose of determining pension benefits;
- (e) prescribing the persons who may receive benefits under the plan;
- (f) prescribing the contributions to the fund by employees and the rate or rates at which interest shall be calculated when payments are made out of the fund of any such contributions and of any contributions to either of the funds superseded by the fund;
- (g) prescribing the amount for which any employee or pensioner shall be insured from time to time;
- (h) prescribing the payments to be made from the fund, or by an insurer, upon
 - (i) termination of employment,
 - (ii) retirement from employment on pension,
 - (iii) disability, or
 - (iv) death,
 and the terms and conditions upon which, and the person or persons to whom, the same shall be made;
- (i) providing for payment out of the fund of the cost of any benefits provided under any agreement referred to in subsection 5;
- (j) prescribing the intervals of time within which an actuarial valuation of the fund shall be made;
- (k) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this section.

Cost to
Commission
chargeable
to adminis-
tration.

(7) The fund shall be maintained and administered by the Commission and the cost to the Commission of maintaining and administering it shall be deemed to be part of the cost of the administration of the Commission and shall be chargeable accordingly.

Freedom
from
attachment.

(8) The interest of any person in the fund or in any benefit payable therefrom shall not be subject to garnishment, attachment or seizure or any legal process and shall not be assignable. 1949, c. 73, s. 4 (1), *amended*.

21. The Commission, with the approval of the Lieutenant-Governor in Council, may enter into agreement with the corporation of any municipality receiving power from the Commission for including in the fund mentioned in section 20 employees of any commission established under *The Public Utilities Act*, or under this Act, for the management and control of works for the distribution of electrical power or energy in the municipality, upon such terms as to the contribution by the municipal corporation and otherwise as may be deemed expedient. R.S.O. 1937, c. 62, s. 18.

Municipal employees may be included in fund.

Rev. Stat., c. 320.

REPORT ON WATER POWERS

22. Whenever required by the Lieutenant-Governor in Council so to do, the Commission shall inquire into, examine and investigate water powers or water privileges in Ontario and report upon the value and capacity thereof, with such other information as the Lieutenant-Governor in Council may require. R.S.O. 1937, c. 62, s. 19.

Commission to report on water powers, etc.

ACQUISITION OF PROPERTIES

23. The Commission may report to the Lieutenant-Governor in Council, designating,

Acquisition of properties.

- (a) the land, water, water privileges or water powers, or the land and works, or portion thereof, of any person owning or holding under lease or otherwise, or developing, operating or using a water privilege or water power, or transmitting electrical or other power or energy in Ontario which, in the opinion of the Commission, should be purchased, acquired, leased, taken, expropriated, developed, operated or used by the Commission for the purposes of this Act; or
- (b) the quantity of the product of any person generating electrical power or energy in Ontario or bringing such power or energy into Ontario for use or transmission therein which the Commission requires for the purposes of this Act. R.S.O. 1937, c. 62, s. 20.

24.—(1) The Lieutenant-Governor in Council may authorize the Commission at any time and from time to time, to acquire by purchase, lease, or in any other manner, or without the consent of the owner thereof to enter upon, take possession of, expropriate and use, any land, lake, river, stream or other body of water or watercourse, and temporarily or permanently to divert or alter the boundaries or course of any lake, river, stream or other body of water or watercourse, or raise or lower

Power may be given to Commission.

the level of the same or flood or overflow any land. R.S.O. 1937, c. 62, s. 21 (1).

Power may be given to Commission, (2) In particular, but without limiting the generality of subsection 1, the Lieutenant-Governor in Council, upon the recommendation of the Commission, may authorize the Commission to, R.S.O. 1937, c. 62, s. 21 (2), *part.*

to acquire lands, waters, powers and works;

(a) acquire by purchase, lease or otherwise, land, waters, water privileges, water powers, buildings and works used for, or adapted or useful for, or capable of being used or made useful for generating, transforming, transmitting, distributing or selling electric or other power or energy; enter upon, take possession of, expropriate, acquire and use any such land, waters, water privileges, water powers, buildings and works without the consent of the owner thereof, or of any person in any manner entitled to any right, title, interest, claim or demand thereto or therein; and have and hold them however acquired or obtained, and develop, utilize, use, maintain, operate and improve them for any of the purposes of this Act;

to acquire assets and undertaking of companies;

(b) acquire by purchase the whole or any part of the property, assets and undertaking of any corporation engaged in the production or sale of electric or other power or energy, including shares held or owned by the corporation in any other company or companies of any kind or nature whatsoever, and to acquire the whole or any part of the properties, assets and undertakings of such other company or companies and to hold, develop, utilize, use, maintain, operate and improve any property or properties so acquired; 1946, c. 73, s. 8.

to acquire and construct works for production and use of electricity;

(c) generate and produce electrical, pneumatic, hydraulic, mechanical or other power or energy at places in Ontario by the use of water, coal, steam or oil, or by any other means, and transform, transmit, make available for use, distribute, deliver, sell, supply and generally use for the purposes of the Commission the electrical, pneumatic, hydraulic, mechanical or other power or energy and connect the works constructed or installed for these purposes with any other power works and with any system;

to acquire and use real and personal property for the generation and use of electrical power;

(d) for the purposes of clause c acquire by purchase, lease or otherwise, hold, improve and use real and personal property, acquire by purchase or otherwise water, coal, steam, oil and other supplies, and construct, maintain and operate works, including without limit-

ing the generality of the foregoing, development works, generating plants, transformer stations, transmission lines, switching and regulating works, distribution lines, access and other roads, and all other equipment, plant and works and things required for or incidental to any of such purposes;

- (e) acquire by purchase, lease or otherwise, lands, works, ^{to acquire works on provincial boundaries;} waters, water privileges and water powers upon or adjacent to the boundary line between Ontario and any other province and situate in Ontario, or in such other province, or partly in one and partly in the other of them, and erect, construct, maintain and operate upon any lands so acquired, works for the generation, transformation and transmission of electrical, pneumatic, hydraulic, mechanical or other power or energy, and enter into agreements with the Crown in right of such other province or with any commission appointed by the Lieutenant-Governor in Council of such other province or otherwise lawfully appointed or any other person interested in or affected by such works as to the terms and conditions upon which such works shall be constructed and operated and any rights so acquired be exercised; 1949, c. 73, s. 5.
- (f) acquire by purchase in the open market or otherwise shares or stock of any company owning or ^{to acquire shares in companies operating on such boundaries;} controlling any such lands, waters, water privileges, water powers or works; R.S.O. 1937, c. 62, s. 21 (2), cl. (e).
- (g) construct, maintain and operate, and acquire by ^{to acquire plant for transmitting and transforming power;} purchase, lease or otherwise, or without the consent of the owner thereof or of any person interested therein, enter upon, take possession of, expropriate and use all erections, machinery, plant and other works and appliances for the transmission, transformation, supply and distribution of electrical power or energy; and conduct, store, transmit, transform and supply electrical power or energy and steam for the purposes of this Act, and with lines of wires, poles, conduits, pipes, motors, transformers or other conductors, equipment or devices, receive, conduct, convey, transmit, transform, distribute, supply or furnish such electrical power or energy and steam to or from or for any person at any place, through, over, under, along, upon or across any land, public highway or public place, stream, water, watercourse, bridge, viaduct or railway, and through, over, upon or under the land of any person; 1943, c. 22, s. 2 (1).

to contract
for supply
of power to
Commission;

- (h) contract with any person generating, transmitting or distributing electrical power or energy, or proposing so to do, to supply electrical power or energy to the Commission, and require any person generating, transmitting or distributing electrical power or energy to supply so much thereof as the Commission may require;

to flood
lands and
improve
water
powers;

- (i) enter upon, take and use, without the consent of the owner thereof, any land upon which any water power or privilege is situate, or any lake, river, stream or other body of water which, in the opinion of the Commission, is capable of improvement or development for the purpose of providing water power, and construct such dams, sluices, canals, raceways and other works as may be deemed proper or expedient for such purposes, and flood and overflow any land to the extent to which the Commission may deem necessary for the purpose of providing storage of the water or for any other purpose in connection with such works, and contract with any municipal corporation, company or individual for the use of any of the improvements or works so made, on such terms and conditions as may be agreed upon;

to acquire
flooded
lands on
behalf of
municipality;

- (j) enter upon, take and use, without the consent of the owner thereof, any land which may, in the opinion of the Commission, be necessary for the full enjoyment and exercise of any water right, water privilege or improvement undertaken by the Commission or by any municipal corporation or for the relief of the municipal corporation from liability for damages for the flooding or overflowing of such lands; but subject to subsection 1 of section 42, the proceedings taken under this clause shall be at the sole expense of the municipal corporation, and the Commission may convey the lands so acquired to the corporation or make such other disposition thereof with the consent of the corporation as may be deemed expedient;

to acquire
distributing
plant;

- (k) acquire by purchase or expropriate any plant, machinery, appliances, wires, poles and other equipment, and the land occupied by or used in connection therewith or any part thereof, used or intended for the distribution of electrical power or energy in a municipality, the corporation of which has entered into an agreement with the Commission for the supply of electrical power or energy, and contract for the sale and transfer to such municipal corporation of such plant, equipment and land upon such terms and for

such price, not being less than the price paid by the Commission, with the expenses in connection with such purchase or expropriation added thereto, as may be agreed upon; but if part only of the property is taken the damage done to the property by the severance shall be taken into consideration in determining the compensation;

- (l) acquire from time to time by purchase in the open market or otherwise, shares or stock in or the securities of any incorporated company carrying on the business of developing, distributing or transmitting electrical power or energy and for the purposes of this Act the acquisition of such shares, or stock, or securities shall be an investment in works; to acquire shares in companies;
- (m) acquire by purchase or otherwise on any terms and hold shares in any incorporated company carrying on the business of developing, supplying or transmitting electrical power or energy, and in connection with any such acquisition enter into any covenants and agreements, and pay for any such shares either in cash or in bonds, debentures or other securities of the Commission, and guarantee, or covenant or agree for or in respect of the payment or performance of any bonds, debentures, securities, contracts or obligations of any company shares in which are so acquired, or of any company shares in which are held by any company in which shares are so acquired, and for the purposes of this Act the acquisition of shares of such companies shall be deemed to be an investment in works; to acquire stock in development companies;
- (n) lease or operate the works for the generation, transmission, distribution or use of electrical energy of any person, firm or corporation on such terms as the Commission may arrange with the owner. R.S.O. 1937, c. 62, s. 21 (2), cls. (g-m). to lease or operate works of others.

(3) In relation to all matters authorized by the Lieutenant-Governor in Council under this section, the Commission shall have and may exercise and enjoy, in addition to the powers conferred by this or any other Act, all the powers conferred upon the Minister of Public Works in relation to a public work by *The Public Works Act*, and in the application of this section, where the words "the Minister", "the Department" or "the Crown" appear in that Act, they shall, where the context permits mean the Commission. The Commission to have powers of Minister of Public Works.

(4) Upon the deposit in the proper registry or land titles office of a plan and description of the land required by the Mode of perfecting title.

Commission, signed by the secretary or by an Ontario land surveyor, the land so described shall thereupon become and be vested in the Commission. R.S.O. 1937, c. 62, s. 21 (3, 4).

Procedure. (5) Except as otherwise provided in this Act the Commission shall, in the exercise of its compulsory powers, authorized by this section and section 38, proceed in the manner provided by *The Public Works Act*, where the Minister of Public Works takes land or property for the use of Ontario, and all the provisions of that Act with respect to the fixing, payment and application of compensation shall apply *mutatis mutandis*. R.S.O. 1937, c. 62, s. 21 (5); 1944, c. 46, s. 3.

Powers of Board. (6) Where the Commission elects to have the compensation determined by the Ontario Municipal Board under section 28 of *The Public Works Act*, the Board shall, in addition to the powers conferred upon it by section 28 of *The Public Works Act* and by *The Ontario Municipal Board Act*, have the power, upon the application of the Commission or the owner, to direct the filing and serving of pleadings, and particulars thereof, and to direct discovery and production as in actions in the Supreme Court, and in accordance with the rules of practice in that behalf.

Authorizations may be retroactive. (7) The Lieutenant-Governor in Council may direct that any authorization to the Commission heretofore or hereafter given shall be retroactive, when the same shall be deemed to have taken effect from the time so fixed.

Exercise of powers not to be enjoined, etc. (8) No act or proceeding of the Commission pursuant to any authorization of the Lieutenant-Governor in Council under this section shall be restrained by injunction or other process or proceeding in any court. R.S.O. 1937, c. 62, s. 21 (6-8).

Change of frequency. **25.** Subject to the approval of the Lieutenant-Governor in Council and notwithstanding any agreement between the Commission and any person, the Commission may change the periodicity in alternations of current at which it supplies electrical power or energy to any person. 1948, c. 69, s. 3, *part*.

Powers of Commission on frequency change-over. **26.** Subject to the approval of the Lieutenant-Governor in Council, the Commission may,

(a) for the purposes of standardizing and making uniform the periodicity in alternations of current at which it supplies electrical power or energy, alter, reconstruct, rebuild, re-assemble, construct, extend, replace or do whatever else may be necessary in respect of its works and works held by it under section 84;

- (b) for the purposes of standardizing and making uniform the periodicity in alternations of current at which electrical power or energy generated or procured by it is utilized and with the consent of the owner, alter, reconstruct, rebuild, re-assemble, construct, extend, replace or do whatever else may be necessary in respect of the electrical equipment, apparatus, appliances, devices and works of any person by which such electrical power is taken and used, except meters of any municipal corporation or commission or the electrical equipment, apparatus, appliances, devices or works of any municipal corporation or commission used for distribution stations or distribution or street lighting systems;
- (c) bear the expense of anything done pursuant to clause *a*;
- (d) bear the expense of anything done pursuant to clause *b* to the electrical equipment, apparatus, appliances, devices or works of commercial lighting consumers, or domestic or rural consumers other than rural power consumers;
- (e) charge to and collect from the owners of electrical equipment, apparatus, appliances, devices or works other than the electrical equipment, apparatus, appliances, devices or works mentioned in clause *d* the expense of anything done thereto pursuant to clause *b* to the extent approved by the Lieutenant-Governor in Council and bear the balance of such expense. 1948, c. 69, s. 3, *part*; 1949, c. 73, s. 6 (1).

27. The Commission may do whatever will in its opinion effect a reduction in the cost of anything done or to be done under clause *a* or *b* of section 26. 1949, c. 73, s. 7, *part*. Reduction of cost of frequency change-over.

28. Where the owner of any electrical equipment, apparatus, appliances, devices or works by which is utilized electrical power or energy generated or procured by the Commission changes them with the approval of the Commission in order to take the electrical power or energy at a changed periodicity in alternations in current, the Commission may bear the expense of the change to the same extent as if it had effected the change itself under clause *b* of section 26. 1949, c. 73, s. 7, *part*. Change made by owner.

29. Electrical equipment, apparatus, appliances, devices or works, or any part thereof, replaced by the Commission under clause *b* of section 26 shall become the property of the Commission. 1949, c. 73, s. 7, *part*. Ownership of replaced equipment.

Conversion
not a
breach of
contract.

30. Nothing done under section 25 shall be deemed a breach of contract by the Commission or entitle any person to rescind any agreement or release any guarantor from the performance of his obligation. 1949, c. 73, s. 7, *part*.

Limitation
of actions
arising
from
frequency
change-over.

31.—(1) No action shall be brought against any person in respect of anything done under or pursuant to or to give effect to section 25, 26 or 27 after the expiration of one year commencing on the date when the cause of action arose.

Notice of
claim.

(2) No action shall be brought against any person in respect of anything done under or pursuant to or to give effect to section 25, 26 or 27 unless notice in writing of the claim has been served upon or sent by registered post to such person within 90 days after the cause of action arose.

No right
of action
in certain
cases.

(3) No action shall be brought against any person, and no person shall be liable for loss of use of anything, or loss of production of or by anything, or loss of profits by reason of anything done pursuant to or to give effect to section 25, 26 or 27.

Saving.

(4) Subsections 1 and 2 shall not apply to any action between the Commission and any person in respect of or arising from any agreement between the Commission and such person for the doing by such person for the Commission of anything to give effect to section 25, 26 or 27. 1949, c. 73, s. 7, *part*.

Mode of
exercising
and extent
of powers.

32.—(1) Notwithstanding anything in this or any other Act, whenever the Commission has been authorized by the Lieutenant-Governor in Council to exercise any of the powers set out in clause g of subsection 2 of section 24, it may proceed under the following provisions of this section.

Commission
may enter,
etc., without
notice.

(2) The Commission may, without notice or without the deposit of any plan or description or any prerequisite or preliminary action or formality, and with or without the consent of the owner thereof, enter upon, take possession of and use for such time as the Commission may deem desirable any land which the Commission may deem to be required for the due exercise of the powers so authorized.

Compensa-
tion.

(3) Compensation shall be made to the owner for the land taken or used and for all damage to property resulting from the exercise of the said powers, and in fixing such compensation regard shall in all cases be had to the value of the land taken, or to the nature and extent of the estate, right, privilege, easement, or interest which the Commission decides to take and acquire in, over, upon or in respect of the land as the case may be, and the compensation shall be based thereon.

(4) Where the amount of the compensation has been agreed upon or fixed or otherwise determined, all of the provisions of *The Public Works Act* as to the payment or other disposition and application of the compensation or money payable in respect of the land, right or easement taken by the Commission shall apply *mutatis mutandis*. Rev. Stat., c. 323, how far to apply.

(5) The Lieutenant-Governor in Council may from time to time appoint some suitable person as a valuator, who shall receive his reasonable and necessary travelling and other expenses and such salary as may be fixed by the Lieutenant-Governor in Council, and the same shall be paid by the Commission as part of its general administration expense, and when no agreement is arrived at as to the amount of compensation to be paid to the owner, the valuator shall as soon as conveniently may be after a request to him either from the owner or the Commission, secure from the Commission a description of the land, right or easement which the Commission requires or has taken from the owner and make such inquiries and inspection and procure such expert advice as he may think desirable and in accordance with subsection 3 fix and determine the compensation to be paid for such land, right or easement, or property damage, and notify by registered letter the owner and the Commission of such finding. Appointment of and powers of valuator.

(6) Either the owner or the Commission, if dissatisfied with the amount of the compensation so fixed, may appeal within 30 days after the mailing of the notice of finding by the valuator by giving notice to the other that an appeal is desired from the same. Appeal from valuator.

(7) An appeal from the valuator shall be heard and determined by the Ontario Municipal Board or a member thereof, provided however that the Lieutenant-Governor in Council may from time to time designate a judge of the Supreme Court or a judge of a county or district court to hear and dispose of any such appeal or appeals, and where the Commission gives notice to the owner that an appeal is to be determined by a judge instead of by the Board or a member thereof, the judge designated shall hear and determine such appeal, and if a judge is so designated he shall receive his reasonable and necessary travelling expenses and such fee as may be fixed from time to time by the Lieutenant-Governor in Council and the same shall be paid by the Commission as part of its general administration expense. Who to hear appeals.

(8) The judge or the Board or any member thereof, as the case may be, shall appoint such time and place and give such notice of the hearing of appeals as may be thought proper and most convenient and the judge or Board or any member thereof shall for the purposes of this section have all the Powers of judge or Board on appeal.

Rev. Stat.,
c. 262.

powers that are conferred upon the Ontario Municipal Board by sections 38 and 41 of *The Ontario Municipal Board Act* and the provisions of that Act with respect to procedure and the enforcement of orders made thereunder from time to time shall apply *mutatis mutandis*.

Costs of
appeal.

(9) In the notice of appeal the appellant shall set out the amount which the appellant deems proper to have been fixed by the valuator and if, where the owner is the appellant, he fails to recover anything more than the amount fixed by the valuator, or if, where the Commission is the appellant, it fails to have the amount so fixed reduced, then the costs of the proceedings as between party and party shall be payable by the appellant, and if, under the provisions of this subsection, the costs are payable to the Commission, the same may be deducted from the compensation payable.

Scale of
costs.

(10) The costs of the proceedings may be fixed by the judge or Board or member thereof at such amount as may be deemed proper, due regard being had to the difference between the amount fixed by the valuator and the amount awarded by the judge or Board or member thereof, or may be directed to be taxed upon the scale of the division, county or Supreme Court scale, as the case may be, and, if it appears on such appeal that the claim to compensation put forward by the owner is grossly excessive, and the expense of the Commission has been thereby increased, the judge or Board or member thereof may fix and allow to the Commission by way of set-off against such costs as may be awarded to the owner hereunder, the amount of such excess expense.

Mode of
perfecting
title.

(11) The owner shall, upon reasonable notice, attend at a place to be fixed by the Commission, and execute such necessary instruments or documents as the Commission may require upon tender to him of the Commission's cheque for the amount awarded by the judge or Board or member thereof or fixed by the valuator, and costs, if any, less such costs as may have been awarded against him, and in the event of his failing to attend and execute such instruments or documents, or if for any reason the Commission deems it desirable, the Commission may file in the registry office or land titles office, as the case may be, in the district or county in which the land affected is situate, a plan and description of the land, right or easement so taken, signed by the secretary of the Commission, or by an Ontario land surveyor, and thereupon such land, right or easement shall be and become vested in the Commission. R.S.O. 1937, c. 62, s. 22.

Appeals.

33.—(1) In cases under section 32, either the Commission or the owner may, subject to subsection 2 of section 35, appeal

to the Court of Appeal from the order of the judge or the Board or member thereof, and, in all other cases, either the Commission or the owner may appeal to the Court of Appeal from the order of the judge or the Board, as the case may be.

(2) Where the appeal is taken under subsection 1, section 98 of *The Ontario Municipal Board Act* as to appeals from the Board shall apply. R.S.O. 1937, c. 62, s. 23. Rev. Stat., c. 262, to apply.

34. The powers conferred upon the Commission by or under this Act shall include the right to enter upon any land upon either side of the right-of-way acquired for the transmission or distribution lines or works of the Commission, or upon any land upon either side of such lines or works, and to fell or remove any trees or branches thereof or any other obstruction upon any such land or upon any public highway or place which, in the opinion of the Commission, it is necessary to fell or remove, but subject always to the payment of compensation as provided in section 32, and section 32 shall apply to the exercise of the powers mentioned in this section; provided that where the lines or works of the Commission are situated upon a highway, whether it be the King's Highway or any other highway, compensation shall be payable only to the extent to which it is payable by a municipality for felling or removing trees or branches thereof under and by virtue of section 483 of *The Municipal Act*. R.S.O. 1937, c. 62, s. 24. Removal of trees and obstructions beside right-of-way. Rev. Stat., c. 243.

35.—(1) Notwithstanding anything in section 32, where a claim is made against the Commission for damage to crops, gardens, shrubs, trees or other growing things, caused by or incidental to the construction, maintenance or repair of poles, wires, towers or works included in or connected with power transmission lines, notice of the claim shall be given in writing, signed by the claimant at as early a date as possible, and so that the nature, character, extent and evidence of the damage may still be apparent, and in any case, not later than 60 days after the cause for complaint arose. Owner to give notice of crop damage.

(2) If a claim is made after the time limited by subsection 1, and the claimant has failed to give the notice therein required, either the Commission or the owner may, notwithstanding such failure, request the valuator to attend and investigate the damage complained of, and the valuator, if satisfied that there was reasonable excuse for the failure to give or the insufficiency of, the notice, and that the Commission was not thereby prejudiced, may award such compensation as may appear to him to be just and in that event the finding of the valuator shall be final and binding upon the owner and the Commission. R.S.O. 1937, c. 62, s. 25. Effect of failure to give notice.

Powers of
Commission
as to lines
on highways.

36. In the exercise of the powers conferred and in carrying out any work authorized by this Act or any other general or special Act, the Commission has and always has had authority to put down, carry, construct, erect and maintain such conduits, wires, poles, towers and other equipment and works used in the transmission and distribution of electrical power and energy as it deems necessary or desirable, under, along, across or upon any public street or highway and to remove or replace them without taking any of the proceedings prescribed by this Act for the taking of land without the consent of the owner thereof, and the provisions of this Act with regard to compensation for lands so taken shall not apply, but the location of any such conduits, wires, poles, towers, equipment or works to be put down, carried, constructed or erected under, along, across or upon a public street or highway shall be agreed upon by the Commission and the municipal corporation or other authority having control of the public street or highway, and in case of disagreement shall be determined by the Ontario Municipal Board. 1943, c. 22, s. 3.

Cost of
improve-
ments.

37. Wherever in the course of constructing, reconstructing, altering or improving any highway it becomes necessary to take up, remove or change the location of poles, wires, conduits, transformers or other appliances or works placed on or under a highway by the Commission, the costs and expenses incurred in such work shall be apportioned and paid in the manner provided by sections 2 and 3 of *The Public Service Works on Highways Act*, which sections shall apply to the Commission in the same manner and to the same extent as to a municipal corporation, commission, company, or individual owning or operating appliances or works mentioned in such sections. R.S.O. 1937, c. 62, s. 27.

Rev. Stat.,
c. 318.

Buildings.

38.—(1) The Commission may expropriate, purchase, lease or otherwise acquire lands that the Commission may deem necessary for office, service, or other buildings, and may erect thereon such buildings and works as the Commission may require for its purposes.

Expense
repayable by
municipalities.

(2) All expenditures by the Commission for the purposes mentioned in subsection 1 shall be repayable to the Commission by the municipal corporations having contracts with the Commission, and shall be repaid by annual sums sufficient to form in 40 years a sinking fund for the repayment of the cost thereof. R.S.O. 1937, c. 62, s. 28.

Disposal of
works to a
municipality.

39.—(1) The Commission, upon such terms as it deems proper, may lease, sell or otherwise dispose of to a municipal corporation or commission any works or any interest therein

that the Commission is or has been using and that it deems advisable to so dispose of as aforesaid.

(2) The Commission may acquire from a municipal corporation or commission by purchase, lease or otherwise, upon such terms as the Commission may deem proper, any works or other property, real or personal, that the Commission may deem advisable for its purposes and such municipal corporation or commission may lease, sell or otherwise dispose of such works or other property to the Commission without the assent of the electors or the approval of the Ontario Municipal Board required by section 37 of *The Public Utilities Act*, but otherwise such municipal corporation or commission shall comply with the said section 37. Acquiring property from municipality. Rev. Stat., c. 320.

(3) The Commission, upon such terms as it deems proper, may contract with any corporation, firm or person for joint ownership or joint use of works or for rights to use the works of any corporation, firm or person or to permit any corporation, firm or person to use works of the Commission and for the purposes of this subsection, works shall include telephone and telegraph lines and other communication works either of the Commission or of any other corporation, firm or person in addition to the things mentioned in clause g of section 1. Joint use of works.

(4) The Commission may, upon such terms as it deems proper, sell, lease or otherwise dispose of any property, real or personal, that it may deem unnecessary for its purposes. Sale of property.
R.S.O. 1937, c. 62, s. 29.

40.—(1) Where any of the compulsory powers mentioned in section 24 are exercised with respect to land, and no entry on or use of the land taken has been made, except for the purpose of survey or examination, the Commission, at any time before the expiration of three months from the date of the award, may, by writing under the hand of the chairman and the seal of the Commission, registered in the proper registry or land titles office, declare that the land or any part thereof is not required and is abandoned by the Commission, and thereupon the land declared to be abandoned shall revert in the person from whom it was taken, or in those entitled to claim under him. Abandonment of lands after expropriation.

(2) Where the land taken, or any part thereof, is abandoned, the person from whom it was taken shall be entitled to all damages sustained and all costs incurred by him in consequence of the taking and abandonment, and where part only of the land is abandoned the fact of such abandonment and the damages, if any, sustained in consequence of that which is abandoned having been taken, and all the other circumstances of the case shall be taken into account in deter- Total abandonment. Partial abandonment.

Rev. Stat.,
c. 323.

mining the amount to be paid to any person claiming compensation, and the amount of the damages, shall, subject to section 32, be determined in the manner provided by *The Public Works Act*, and if a reference as to compensation is pending, shall be determined on such reference. R.S.O. 1937, c. 62, s. 30.

Extent of
powers of
expropriation.

41. The compulsory powers conferred by this Act shall extend to land, works, rights, powers, privileges and property notwithstanding that they are or may be deemed to be devoted to a public use or that the owner thereof possesses the power of taking land compulsorily, and notwithstanding and regardless of the origin, nature and source of the owner's title thereto, and of the manner whereby it was acquired by the owner or any of his predecessors in title. R.S.O. 1937, c. 62, s. 31.

Adjustment
of proportions
of cost
of works on
waters.

42.—(1) Where in the exercise of the powers conferred by this Act the Commission constructs any works or improvements upon any lake, river, stream or other body of water the Lieutenant-Governor in Council may direct a judge of the Supreme Court or the judge of the county or district court to inquire into and determine the proportion in which any municipal or other corporation, company or individual owning a water power or water power site, whether developed or not, is benefited by such works or improvements and the judge may make an order fixing the proportion in which the cost of such works and improvements shall be borne by any such municipal or other corporation, company or individual and by the Province respectively. R.S.O. 1937, c. 62, s. 32 (1).

Powers of
judge on
inquiry.

(2) The judge, upon an inquiry under this section, shall have the like powers as a judge sitting in court, including the power to compel the attendance of witnesses, to hear evidence on oath and to require the production of books, papers, documents, matters and things and the order of the judge shall be enforceable in the manner provided by *The Judges' Orders Enforcement Act*.

Rev. Stat.,
c. 189.

Costs.

(3) No costs shall be awarded to any party appearing before the judge or otherwise interested in the inquiry.

Fees and
expenses.

(4) The judge shall be paid such fees and expenses as shall be fixed by the Lieutenant-Governor in Council.

Cost of
works,
etc., what
to include.

(5) For the purposes of this section the cost of the works or improvements shall be deemed to include all expenditures, charges and expenses as fixed by the Commission made or incurred by it in respect of the construction of such works or improvements, extensions and additions thereto, interest charges, operating expenses, repairs and maintenance, down

to the date of the order of the judge, the fees and expenses of the judge and the expenses incurred by the Commission in connection with the inquiry.

(6) Any person, or any municipal or other corporation ^{Appeal.} affected by the order made under the authority of subsection 1 may, with the consent in writing of the Commission, appeal from such order to the Court of Appeal.

(7) The Commission may establish a sinking fund to be ^{Sinking fund.} provided by the parties in the proportions directed by the order of the judge sufficient to discharge and pay off the cost of such works or improvements and such of the capital cost as may be incurred from time to time by the Commission after the date of the order of the judge within such periods as the Commission may fix, having regard to the life of such works or improvements and not exceeding 40 years.

(8) The Commission shall, subsequent to the order of the judge, annually fix and determine the cost, charges or expenses ^{Annual apportionment of costs by Commission.} incurred by it from time to time in the operation, maintenance, repair and renewal of such works and shall apportion and charge the same against the parties in the proportions fixed by the order of the judge, together with the payments in respect of sinking fund hereinbefore mentioned and the amounts so charged shall be payable on demand recoverable in the manner hereinafter provided.

(9) In fixing the amounts so payable the Commission shall ^{Allowance for previous expenditure.} give credit for any amount theretofore contributed to the cost of such works and improvements by a municipal or other corporation or by any individual.

(10) The amount so found payable by a municipal corporation shall be recoverable in the like manner as in the case of a charge for any other service rendered by the Commission to a municipal corporation and in the case of any other corporation or of an individual the amount so found due shall constitute a debt due to the Commission and shall be recoverable in any court of competent jurisdiction from the owners from time to time of the lands so found by the order of the judge to be benefited by such works or improvements and shall constitute a lien or charge upon such lands enforceable in the same manner and by the same proceedings as nearly as may be as in the case of a charge in favour of the Crown. ^{Recovery of amount assessed.}

(11) Where a proportion of the cost of such works and improvements is to be borne by the Province the amount due ^{Share of Province, how payable.} from time to time in respect thereof shall be payable out of any moneys appropriated by the Legislature for that purpose.

(12) When the proportions in which the cost of such works or improvements is to be borne have been fixed by order of the ^{Effect of order.}

judge or of the Court of Appeal, such order shall be final and binding unless and until it shall appear to the Commission that owing to change of circumstances or conditions in respect of such works or improvements it is equitable that there should be a readjustment of the proportions theretofore fixed by the order of the judge and in that case, upon the application of any person liable to contribute to the cost of such works or improvements, made with the consent in writing of the Commission, the judge may make further inquiry and may readjust such proportions to be thereafter applied in such manner as he may deem just and equitable, subject to appeal as hereinbefore provided. R.S.O. 1937, c. 62, s. 32 (3-12).

Limitations
Act not
applicable.

Rev. Stat.,
c. 207.

43. Where possession of land of the Commission has been taken by some other person, the right of the Commission, or anyone claiming under it, to recover it, shall not be barred by reason of the lapse of time, notwithstanding the provisions of *The Limitations Act*, or of any other Act of the Legislature, or by reason of any claim based on possession adverse to it for any period of time which might otherwise be made lawfully at common law, unless it is shown that the Commission had actual notice in writing of such adverse possession, and such notice was had by it 10 years before it or the said person claiming under it commenced action to recover such land; provided that no claim shall be acquired by possession, prescription, custom, user or implied grant to any way, easement, watercourse or use of water or water right or privilege or flooding privilege of the Commission, or or to any way, easement, watercourse, or use of water, or right of drainage along, over, upon, on or from any land, or water, or water right, or privilege of the Commission, notwithstanding *The Limitations Act* or any other Act of the Legislature or any claim at common law based on lapse of time, or length of enjoyment or use. R.S.O. 1937, c. 62, s. 33.

Ownership
of works
retained.

44.—(1) Notwithstanding anything in this Act or any other general or special Act, where works of the Commission have been affixed to realty they shall remain subject to the rights of the Commission as fully as they were before being so affixed and shall not become part of the realty unless otherwise agreed by the Commission in writing.

Affixing
signs on
property
prohibited.

(2) Every person who without the consent of the Commission nails or otherwise attaches anything, or causes anything to be nailed or otherwise attached to or upon any property of the Commission shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$5 and not more than \$10.

(3) The penalties recovered for an offence against sub-section 2 shall be paid over to the Commission. 1944, c. 46, s. 4. Penalties paid to Commission.

TAXATION

45.—(1) Notwithstanding anything in *The Assessment Act*, land owned by and vested in the Commission shall be subject to assessment and taxation for municipal and school purposes at the actual value thereof according to the average value of the land in the locality. Lands of Commission to be taxable. Rev. Stat., c. 24.

(2) Subject to subsection 3, subsection 1 shall not apply to or include buildings, machinery, works, structures, substructures, superstructures, rails, ties, poles, and other property, works or improvements owned, used or controlled by the Commission, or to an easement or the right of use or occupation or other interest in land not owned by the Commission, but all such buildings, machinery, works, structures, substructures, superstructures, rails, ties, poles, and other property, works or improvements owned, used or controlled by the Commission, and every such easement or right, shall continue to be exempt from assessment and taxation as heretofore. Buildings, works, etc., to continue to be exempt.

(3) Where the Commission is carrying on the business of selling by retail electrical goods, supplies or appliances it may be assessed and shall thereupon be liable to taxation in respect of such business and the land and buildings owned or occupied for the purposes thereof in the same manner and to the same extent as a retail merchant carrying on the same business. Retail shops to be taxable.

(4) Notwithstanding anything in any Act, where land which was or is subject to easements, ways, rights of way or entry, flooding rights, licences or rights to maintain works thereon, owned by or belonging to the Commission, has been or is sold for taxes, or in respect of which a tax arrears certificate has been or is registered, such easements, ways, rights of way or entry, flooding rights, licences, or rights to maintain works shall be deemed not to have been or be affected by the sale or registration. R.S.O. 1937, c. 62, s. 34, *amended*. Easement over lands sold for taxes not affected.

ADVANCES AND LOANS

46. The Lieutenant-Governor in Council may raise by way of loan in the manner provided by *The Provincial Loans Act* such sums as the Lieutenant-Governor in Council may deem requisite for the purposes of this Act, and such sums may be paid over to the Commission and shall be accounted for and audited in the manner provided for in this Act. R.S.O. 1937, c. 62, s. 35. Government authorized to raise funds necessary for work of Commission. Rev. Stat., c. 299.

Payment
over to
Commission
of moneys
appropriated.

47. Where the Legislature has appropriated money for the purposes of the Commission, such money shall be payable out of such appropriation to the Commission from time to time upon the requisition of the chairman of the Commission and the direction of the Lieutenant-Governor in Council, in such amounts and at such times as shall be stated in the requisition and direction, and this section shall have effect notwithstanding that there may be sums due from the Commission to the Province and notwithstanding anything in *The Audit Act*. R.S.O. 1937, c. 62, s. 36.

Rev. Stat.,
c. 28.

Where
appropriation
is exhausted,
special
warrant
may issue.

48. Where the appropriation made by the Legislature for any work of the Commission becomes exhausted in any fiscal year, and the chairman of the Commission reports to the Lieutenant-Governor in Council that it is necessary and expedient that such work be proceeded with and that an additional amount is required for that purpose, the Lieutenant-Governor in Council may order a special warrant to be prepared to be signed by the Lieutenant-Governor for the issue of the amount estimated to be required in such fiscal year, and when issued such amount shall be placed by the Treasurer of Ontario to the credit of a special account against which cheques may be issued in favour of the Commission for such sums as shall be required. R.S.O. 1937, c. 62, s. 37.

Repayment
of advances.

49.—(1) The advances received by the Commission under the authority of sections 46, 47 and 48 shall be repayable as follows:

During the twelve-month period ending 31st October, in the years

1951—\$ 1,726,950.87	1961—\$15,492,724.75
1952—10,483,973.05	1962— 1,457,165.95
1953— 1,806,559.11	1963— 1,519,463.70
1954— 1,849,376.08	1964— 1,583,069.40
1955— 1,893,327.08	1965— 1,649,394.10
1956— 1,939,621.95	1966— 1,718,816.64
1957— 1,796,447.17	1967— 1,403,485.50
1958— 1,610,130.67	1968— 1,462,764.52
1959—14,745,686.58	1969— 1,060,733.64
1960— 1,341,659.01	1970— 1,106,410.72
	1971— 701,051.95

Further
repayment.

(2) Notwithstanding anything in this Act the Commission may in addition to the repayments provided for under subsection 1 make further repayments on account of the advances by the Province to the Commission from time to time out of funds in its hands. 1946, c. 73, ss. 9, 18; 1950, c. 55, s. 8.

50. The Commission shall pay annually to the Treasurer of Ontario, as interest on the indebtedness of the Commission to the Province, such sum as may be from time to time determined by the Lieutenant-Governor in Council to be sufficient to reimburse the Province the full amount of interest paid by the Government on moneys raised for the purposes of the Commission and the charges incurred by the Government in providing such money. R.S.O. 1937, c. 62, s. 38.

51.—(1) Subject to the approval of the Lieutenant-Governor in Council, the Commission may borrow from time to time such sums of money as the Commission may deem requisite for any of the purposes of the Commission and may issue notes, bonds, debentures or other securities and the Commission shall have power and shall be deemed always to have had power to make such securities bear such rate or rates of interest and make such securities payable as to principal and interest at such time or times and in such manner and at such place or places in Canada or elsewhere and in the currency or currencies of such country or countries as the Commission with the approval of the Lieutenant-Governor in Council may determine. 1949, c. 73, s. 8 (1).

(2) The purposes of the Commission shall, without limiting the generality thereof, include,

- (a) repayment on account of the advances by the Province to the Commission;
- (b) payment, refunding or renewal from time to time of the whole or any part of any loan raised or securities issued by the Commission under this or any other Act;
- (c) payment of the whole or any part of any loan or of any liability or of any bonds, debentures or other securities, payment whereof is guaranteed or assumed by the Commission;
- (d) payment of the whole or any part of any other liability or indebtedness of the Commission;
- (e) carrying out any of the powers and purposes of the Commission referred to in sections 24 to 28, 38 and 84 or in respect of the acquisition or construction of works referred to in section 59, providing in whole or in part for expenditures of the Commission made or to be made in connection therewith, reimbursing the Commission for any such expenditures heretofore or hereafter made, and repaying in whole or in part any

temporary borrowings of the Commission for any of such purposes. R.S.O. 1937, c. 62, s. 39 (2); 1949, c. 73, s. 8 (2).

May borrow
net sum.

(3) For the purposes specified in subsection 2 the Commission may borrow and may issue as aforesaid in such amounts as will realize the net sum required by the Commission for such purposes and a recital or declaration in the resolution or minutes of the Commission authorizing the issue of securities to the effect that the amount of securities so authorized is necessary to realize the net sum required for the purposes of the Commission shall be conclusive evidence of the fact.

Commission
may sell
or pledge.

(4) The Commission on such terms and conditions as it deems advisable may sell or otherwise dispose of any such notes, bonds, debentures and other securities, may charge, pledge, hypothecate, deposit or otherwise deal with any such securities as collateral security and may do any of these things.

Reissue of
securities.

(5) Any such securities dealt with as collateral security when redelivered to the Commission or its nominees on or after payment, satisfaction, release or discharge in whole or in part of any indebtedness or obligation for which such securities may have been given as collateral, or when the Commission again becomes entitled to such securities, may be treated by the Commission as unissued and may be issued, reissued, charged, pledged, hypothecated, deposited, dealt with as collateral security, sold or otherwise disposed of from time to time upon such terms and conditions as the Commission may deem advisable, or at its option may be cancelled and fresh securities to the like amount and in like form may be issued in lieu thereof with the like consequences, and upon such issue or reissue any person entitled thereto shall have the same rights and remedies as if the same had not been previously issued.

Commission
may pledge
securities.

(6) The Commission on such terms and conditions as it deems advisable may charge, pledge, hypothecate, deposit or otherwise deal with as collateral security any bonds, debentures or other securities in which it has invested its funds as in section 16 provided. R.S.O. 1937, c. 62, s. 39 (3-6).

Form and
execution
of securities.

(7) The notes, bonds, debentures and other securities of the Commission shall be in such form or forms and shall be executed in such manner as the Commission may determine.

Reproduc-
tion of seal
and
signatures.

(8) The Commission may provide that the seal of the Commission may be engraved, lithographed, printed or otherwise mechanically reproduced on any security to which it is to be affixed and that any signature upon any such security and upon the coupons, if any, attached thereto may be engraved,

lithographed or printed or otherwise mechanically reproduced thereon.

(9) The seal of the Commission when so mechanically reproduced shall have the same force and effect as if manually affixed and such mechanically reproduced signatures shall for all purposes be valid and binding upon the Commission notwithstanding that any person whose signature is so reproduced has ceased to hold office before the date of the security or before the issue thereof. 1949, c. 73, s. 8 (3).

Effect of mechanical reproduction of seal and signatures.

52. The Lieutenant-Governor in Council is authorized, on such terms as may be approved by Order in Council, to agree to guarantee the payment of the principal and interest of any bonds, debentures and other securities issued by the Commission, and the form and manner of any such guarantee or guarantees shall be such as the Lieutenant-Governor in Council may approve, and the guarantee or guarantees shall be signed by the Treasurer of Ontario, or such other officer or officers as may be designated by the Lieutenant-Governor in Council, and upon being so signed, the Province of Ontario shall become liable for the payment of the principal and interest of the bonds, debentures and securities guaranteed, according to the tenor thereof, and the Lieutenant-Governor in Council is authorized to make arrangements for supplying the money necessary to fulfil the requirements of the guarantee or guarantees, and to advance the amount necessary for that purpose, out of the public funds of the Province, and, in the hands of any holder of any such bonds, debentures or securities, any guarantee so signed shall be conclusive evidence that the terms of this section have been complied with. R.S.O. 1937, c. 62, s. 40.

Guaranteeing bonds of Commission

53. The Lieutenant-Governor in Council may, on behalf of the Province of Ontario, enter into any covenants or agreements in connection with the acquisition by the Commission of any shares in any incorporated company, and guarantee the observance and performance by the Commission of any contract or agreement of the Commission in relation to such acquisition. R.S.O. 1937, c. 62, s. 41.

Guaranteeing performance of contract for purchase of shares.

54.—(1) Subject to the approval of the Lieutenant-Governor in Council, the Commission may from time to time for any of the purposes of the Commission borrow by way of temporary loan from any chartered bank or from any person such sums as the Commission may deem requisite, either by way of bank overdraft or loan or in any other manner whatsoever.

Temporary loans.

(2) For the purposes of subsection 1, the Commission may pledge as security, notes, bonds, debentures or other securities

Security for temporary loans.

of the Commission pending the sale thereof or in lieu of selling the same, or may pledge as security, bonds, debentures or other securities owned by the Commission, or otherwise give such security as the Commission may determine, and any cheques, promissory notes, or other instruments that may be necessary or desirable for the purposes of subsection 1 or this subsection may be executed in such manner as the Commission may determine.

Guarantee
by Province.

(3) The Lieutenant-Governor in Council may guarantee the repayment of advances made by banks, or any other indebtedness incurred by the Commission. 1949, c. 73, s. 9.

BUSINESS OPERATIONS

Commission
may
purchase
and sell
supplies.

55.—(1) The Commission may, out of any funds in its hands, purchase such electrical, hydraulic or other machinery, appliances, apparatus and furnishings as may be used in the transmission, distribution, supply or use of electrical power or energy, and may dispose thereof to municipal corporations and commissions, and to other persons, firms and corporations.

Manufac-
turing and
dealing in
supplies.

(2) The Lieutenant-Governor in Council, upon the request of the Commission specifying,

(a) the nature and volume of the business to be carried on; and

(b) the extent of the liability which may be incurred in connection therewith,

may authorize the Commission within Ontario to manufacture such electrical, hydraulic or other machinery, appliances, apparatus and furnishings as may be used in the development, transmission, distribution, supply or use of electrical power, and to acquire patents of invention, or interests therein, and to sell and dispose of such machinery, appliances, furnishings or patent rights, and the profits and losses arising from such operation shall be adjusted and apportioned among the municipalities having contracts with the Commission, or be otherwise applied as the Commission shall see fit.

Doing work
for contract-
ing munici-
palities, etc.

(3) The Commission may,

(a) undertake and carry out the preparation of plans, specifications and estimates for, and the construction, erection, installation and putting down of, any plant, machinery, and other things;

(b) purchase supplies, wires, poles, and other things;

(c) render engineering or other service,

for the generation, purchase, transmission, distribution, supply or use of electrical power or energy for light, heat or power purposes, or for the manufacture, procuring, producing, supply or use of any other public utility, by a municipal corporation or commission, or by any other corporation or any person, and the Commission may charge and collect from such corporation, commission or person the cost of any work done or service rendered by the Commission under this subsection.

(4) Subject to the approval of the Lieutenant-Governor in Council the Commission, out of any funds in its hands, may undertake and carry on investigation, experiments, research, development and other work in or for the generation, transformation, transmission, distribution, supply, sale or use of hydraulic, electrical, steam, gas or other power or energy and may use and apply the results thereof, and may undertake and carry on any electro-chemical, chemical, or physical process and, without limiting the generality thereof, electrolysis, reduction, synthesis and conversion of water and other resources, their constituents and compounds and the development and manufacture of products therefrom.

Work for
extending
use of
electricity.

(5) The Commission may acquire any patent or licence, or interest in any patent or licence and may use or supply or dispose of by sale, lease, hire, licence or otherwise any such patent, licence or interest and any product, article or commodity produced, used, acquired or found in the operations of the Commission and any right to or interest in any process or the right to use the same.

Dealing
in patents
and
products.

(6) The Commission may do any or all of the things authorized in this section and as principals, agents, contractors, trustees or otherwise and either alone or in conjunction with others, and a municipal corporation or commission may act as agent for the Commission.

Power to
act with
others.

(7) Any net profit obtained by the Commission from anything authorized in this section shall be applied as the Commission shall deem equitable towards reduction in the cost of power to municipal corporations having contracts with the Commission for the supply of electrical power or energy.

Profits to
reduce cost
of power.

56. Where, in the course of the operations of the Commission, any commodity is produced as a by-product or is found upon property vested in the Commission, the Commission may sell or otherwise dispose of such commodity at such prices and upon such terms as it may deem proper, and any revenue so obtained shall be applied in reduction of the cost of power to municipal corporations having contracts with the Commission for the supply of electrical power or

By-products,
sale of, to
reduce cost
of power.

energy from the works or property in connection with which the commodity is produced. R.S.O. 1937, c. 62, s. 44.

Unused works may be utilized to produce revenue.

57. Whenever any works constructed or acquired by the Commission for the purpose of supplying power or energy are not in use for that purpose, the Commission with the approval of the Lieutenant-Governor in Council may utilize them for such revenue-producing purposes as it may deem proper, and any revenue so derived shall be applied in the reduction of the cost of electrical power or energy to municipal corporations having contracts with the Commission for the supply of electrical power or energy from such works. R.S.O. 1937, c. 62, s. 45.

PART II

SUPPLY OF POWER

Application to Commission for supply of power to municipal corporation.

58.—(1) Any municipal corporation may apply to the Commission for the transmission and supply to the corporation of electrical power or energy for the use of the corporation and the inhabitants of the municipality for lighting, heating and power purposes, or for any of such purposes, or for any of the purposes mentioned in section 67.

Information and estimates to be supplied by Commission.

(2) The Commission shall thereupon furnish to the corporation an estimate of the cost per horse-power at which the electrical power or energy can be supplied to the corporation, including an estimate of the cost of the works by means of which the amount of electrical power or energy required by the corporation is to be supplied, and the Commission may furnish to the corporation, plans and specifications of the works necessary for the distribution of such power or energy by the corporation and an estimate of the cost thereof, and such other information as the Commission may deem advisable.

Vote of electors.
Rev. Stat., c. 243.

(3) The corporation may thereupon submit to a vote of the electors of the municipality, in accordance with *The Municipal Act*, a question as to securing a supply of electrical power or energy from the Commission, and if a majority of the electors vote in the affirmative, the council of the corporation may, by by-law, authorize the entering into, and the corporation shall thereupon enter into, a contract with the Commission in such form as may be approved by the Lieutenant-Governor in Council, and it shall not be necessary to submit a by-law approving thereof for the assent of the electors and the contract shall be valid and binding.

Debentures of contracting municipality not to be included in ascertaining limit of borrowing powers.

(4) Notwithstanding anything in *The Municipal Act* or in any general or special Act, debentures issued or purporting

to be issued by a municipal corporation that has entered into a contract with the Commission for a supply of electrical power or energy from the Commission for the purpose of carrying out the contract, or for constructing or equipping works for the development, transmission and distribution of electrical power or energy so supplied, shall not be included in ascertaining the limits of the borrowing powers of the corporation as prescribed by *The Municipal Act*, or in any general or special Act. R.S.O. 1937, c. 62, s. 46.

Rev. Stat.,
c. 243.

59.—(1) Where under the authority of the Lieutenant-Governor in Council, the Commission has acquired or constructed, is in the process of acquiring or constructing, or may hereafter acquire or construct works for the generation, transmission or distribution of electrical power or energy, wholly or partly in anticipation of a future demand for power in any of the territorial districts of Ontario as set forth in *The Territorial Division Act*, and His Majesty and the Commission have entered into an agreement in relation thereto as provided in subsection 2, such works shall be held by the Commission in trust for His Majesty in right of Ontario. R.S.O. 1937, c. 62, s. 47 (1).

When title
to under-
takings in
territorial
districts to
be in the
Crown.

Rev. Stat.,
c. 388.

(2) His Majesty may enter into an agreement or agreements with the Commission, relating to any or all of the works mentioned in subsection 1, providing for payment to the Commission out of the Consolidated Revenue Fund the amounts from time to time by which the revenues that have been or may hereafter be derived from such works are or may be insufficient to meet in full the annual costs and charges in connection therewith as determined by the Commission, including the items set forth in clauses *a*, *b* and *c* of section 74 and an amount to be determined by the Commission to be provided for the purposes of section 13, and such agreement or agreements when executed by the President of the Executive Council representing His Majesty and the Commission shall be valid and binding on the Province and the Commission respectively. R.S.O. 1937, c. 62, s. 47 (2); 1946, c. 73, s. 10.

Agreements
between the
Crown and
the Commis-
sion as to
undertakings
in territorial
districts.

(3) Such agreement or agreements may provide the time and manner of such payments, the works in respect of which such payments are to be made, the rates of interest on any sums so paid and the repayment of the same out of any surplus thereafter arising from the revenue derived from such works and generally such other matters, things and conditions as may be necessary or incidental thereto.

Terms of
agreements.

(4) For the purposes of this section all of such works may be treated as one or more units as the Commission may from time to time determine. R.S.O. 1937, c. 62, s. 47 (3, 4).

Union of
under-
takings.

Municipal
contracts.

(5) The Commission may contract with any municipal corporation or person for the supply of electrical power or energy from such works or procured pursuant to subsection 8 or 9 at such rates and upon such terms and conditions as the Commission may deem proper. R.S.O. 1937, c. 62, s. 47 (5); 1943, c. 22, s. 5 (1).

Cost in
s. 74 shall
not apply.

(6) The contract with a municipal corporation under subsection 5 may provide for the supply of electrical power or energy at fixed rates or price notwithstanding anything in section 74, and in such event the provisions as to cost in section 74 and the provisions in other sections of this Act relating to such cost shall not apply to such municipal corporation but otherwise this Act shall apply to such municipal corporation. R.S.O. 1937, c. 62, s. 47 (6).

Subs. 6
retroactive.

(7) Subsection 6 shall apply to municipal corporations supplied with power from works covered by an agreement authorized under subsection 2 or procured pursuant to subsection 8 or 9, and shall be deemed so to have applied since the 18th day of April, 1933. R.S.O. 1937, c. 62, s. 47 (7); 1943, c. 22, s. 5 (2).

Diversion
of power.

(8) The Commission may divert electrical power or energy from any system as defined in section 78 for use in any of the territorial districts of Ontario paying to the system supplying such power such price as shall be determined by the Commission and including such price in the annual costs and charges referred to in subsection 2 in such manner as the Commission may determine.

Purchase
of power.

(9) The Commission may purchase electrical power or energy for use in any of the territorial districts of Ontario at such price and upon such terms as it may see fit including such price in the annual costs and charges referred to in subsection 2 in such manner as the Commission may determine. 1943, c. 22, s. 5 (3).

Transfer of
power to
systems.

(10) The Commission may divert, transmit or transfer electrical power or energy from any or all of the works mentioned in subsection 1 for use in any system or systems as defined in section 78 crediting to the revenue derived from such works such price for the electrical power or energy as the Commission may determine. 1949, c. 73, s. 10.

Right to
enter on
lands to
put up
wires, etc.

60. A municipal corporation that has entered into a contract for the supply of electrical power or energy by the Commission may, by its officers, agents, servants and workmen, enter into and upon the lands of any person, including lanes, courts, yards and buildings, for the purpose of placing overhead or underground wires with their appurtenances without

the consent of the owner or occupant of such property, but subject to the payment of compensation for any damage caused thereby, to be determined in the manner provided by *The Municipal Act*, where a municipal corporation enters upon and takes land for the purposes of the corporation, but leave of a judge or payment into court shall not be necessary before the exercise of the powers vested by this section in the municipal corporation. R.S.O. 1937, c. 62, s. 48.

Rev. Stat.,
c. 243.

61.—(1) Where a municipal corporation has heretofore entered into or hereafter enters into a contract with the Commission to take power, either at the time of entering into the contract or, at any time thereafter, exclusively from the Commission, the municipal corporation shall not grant to any corporation or person any right or franchise to erect or lay down poles, wires, conduits or any other structures or works for the distribution of electrical power or energy in the municipality, either for the use of the municipal corporation or the inhabitants generally, or of any particular person, and every such right or franchise and every agreement therefor granted or entered into with or without the assent of the electors shall be null and void.

Granting of
franchises
by municipi-
palities
under con-
tract with
Commission
prohibited.

(2) Where it is alleged that any individual or corporation has erected or laid down upon, over or under any street or other highway in a municipality, any poles, wires, conduits or other structures or works for the transmission or distribution of electrical power or energy without the consent of the municipal corporation lawfully given under a by-law of the council thereof, or is continuing to maintain or use any such structures or works upon, over or under any such street or highway without lawful authority, the Lieutenant-Governor in Council, upon the complaint of the municipal corporation or of any ratepayer, or of the Commission, may direct an inquiry by the Ontario Municipal Board or by a commission composed of two judges of the Supreme Court, and the Board or commission may inquire into the matter, and if, as a result of the inquiry, it is found that such structures or works are upon, over or under any street or highway without lawful authority, the Board or commission may order the removal of all such poles, wires, conduits or other structures upon such notice and upon such terms and conditions as the Board or commission may deem just or reasonable, and an order made by a commission under this subsection may be filed with the Registrar of the Supreme Court and shall have the same force and effect and be enforceable in the like manner as a judgment of the Supreme Court. R.S.O. 1937, c. 62, s. 49 (1, 2).

Proceedings
for ascertain-
ing rights
where
franchise
claimed.

(3) Any such structure or work shall be deemed to be upon, over or under any street or highway without lawful authority

When work
to be deemed
unlawfully
upon the
highway.

where no such right or franchise is found to have existed or where the term for which the right or franchise was originally granted has expired, or where the right or franchise was not granted by by-law in compliance with the statutes relating thereto, and no such right or franchise shall be deemed to have been acquired by lapse of time or by any express or implied acquiescence on the part of the municipal corporation, or of any other municipal corporation, company or individual formerly owning or controlling such street or highway or the lands included therein. R.S.O. 1937, c. 62, s. 49 (3); 1938, c. 37, s. 19 (1).

ENFORCEMENT OF AGREEMENTS

Enforcement
of agree-
ments with
municipal
corporations.

62. Notwithstanding any provision in the contract or agreement entered into between a municipal corporation and the Commission providing for the determination of questions arising under the contract or agreement, or for the settlement of any dispute between the municipal corporation and the Commission by the Lieutenant-Governor in Council or in any other manner, the Commission may bring an action for any breach of the contract or agreement on the part of the municipal corporation, and the court may in any such action grant an injunction restraining the municipal corporation from doing any act or continuing any such breach, may order the municipal corporation to supply any omission or to do any act required to be done by the corporation under the terms of the contract or agreement, and may award to the Commission such sum as damages for any such breach as the court may consider a fitting penalty to impose upon the municipal corporation therefor. R.S.O. 1937, c. 62, s. 50.

POLICE VILLAGES

Trustees of
police village
may contract
with
Commission.

63.—(1) The trustees of a police village shall, for the purposes of this Part, be deemed a municipal corporation, and may exercise all the powers conferred upon municipal corporations by this Part, and may enter into a contract with the Commission for the supply of electrical power or energy as provided by this Act.

Submission
of by-law
to electors.

(2) The council of the township or the councils of the townships in which the police village is situate, upon the request of the police trustees, shall submit the question as to the supply of electrical power or energy provided for by section 58, to a vote of the electors of the police village qualified to vote thereon, and shall, upon the like request, issue debentures as provided by this Act.

Township
to levy
special rate.

(3) The council of the township in which the police village or any part thereof is situate shall annually levy by special

rate upon the rateable property in the police village, or in that part of the police village situate in the township, the amounts required to meet the payments to be made to the Commission, and to pay off the debentures issued under subsection 2. R.S.O. 1937, c. 62, s. 51.

64.—(1) Where the trustees of a police village have entered into a contract with the Commission for the supply of electrical power or energy, and have heretofore constructed, purchased or acquired, or hereafter construct, purchase or acquire, works for distributing electrical power or energy, and the trustees of the police village desire to extend or improve such works, they may apply to the council of the township for the passing of a by-law for the issue of debentures for such extension or improvement, and the council shall pass the necessary by-law for borrowing such further sums as may be necessary for such extension or improvement, and for levying by an annual special rate upon the rateable property in the police village the sums required for the payment of the debentures issued for the extensions or improvements.

Extension,
etc., of
works in
police
village.

(2) The by-law shall be approved by the Commission before the final passing thereof, but shall not require the assent of the electors.

Assent of
electors not
required.

(3) Such approval may be given if it is shown to the satisfaction of the Commission that the extension or improvement is necessary or desirable, and that sufficient additional revenue will be derived therefrom to meet the annual payments in respect of the debt and the interest thereon. R.S.O. 1937, c. 62, s. 52.

Approval of
Commission.

65.—(1) The trustees of a police village shall be a commission for the control and management of works established for the distribution of electrical power or energy in the police village, and shall have and may exercise and perform the like powers and duties as nearly as may be as a commission formed under *The Public Utilities Act* in an incorporated village.

Trustees
to be a
Commission.

Rev. Stat.,
c. 320.

(2) The trustees of a police village shall appoint a competent person to act as secretary-treasurer for the purpose of keeping the accounts of the trustees for the distribution and supply of electrical power or energy and acting as custodian of funds collected by the trustees or received by them from the treasurer of the township for the establishment of works in connection with the distribution of power. R.S.O. 1937, c. 62, s. 53 (1, 2).

Secretary-
treasurer.

(3) The secretary-treasurer shall give security for the due accounting of all sums of money coming to his hands and for

Security.

the payment over to the township treasurer of the sums required from time to time to meet payments coming due for interest and principal and to provide a sinking fund for the payment of any debentures issued for the works undertaken by the trustees under any contract with the Commission. R.S.O. 1937, c. 62, s. 53 (3); 1943, c. 22, s. 6.

Audit of
accounts.

(4) The accounts of the secretary-treasurer shall be audited by the auditor of the township in which the police village is situate, or if the police village includes parts of two or more townships, then by the auditor of that township having the highest assessment in the police village. R.S.O. 1937, c. 62, s. 53 (4).

TOWNSHIPS

By-laws may
be passed
by township,
re,

66.—(1) Notwithstanding anything in *The Public Utilities Act*, or in any other Act, the council of a township may from time to time pass by-laws,

establishing
areas in
township;

(a) for establishing, with the approval of the Commission, an area in the township as to which any of the by-laws passed under clauses *b*, *c* and *d* may have effect, or establishing the whole township as such an area;

contract
with Com-
mission
for power;

(b) for entering into a contract with the Commission, with the assent of the municipal electors of the area qualified to vote on money by-laws, for the supply of electrical power or energy for the use of the municipality and the inhabitants thereof in any area established under clause *a*;

works;

(c) for acquiring real and personal property and acquiring, constructing, reconstructing, extending and operating works for the development, transmission and distribution of electrical power or energy in the municipality;

general
powers.
Rev. Stat.,
cc. 243, 215,
320.

(d) for exercising, for such purposes, any of the powers which may be exercised by a town under *The Municipal Act*, *The Local Improvement Act*, *The Public Utilities Act*, or this Act.

Alteration
of areas.

(2) The council, with the approval of the Commission, may from time to time, by by-law, enlarge the boundaries of any area established under clause *a* of subsection 1, or otherwise alter its boundaries or incorporate with it any other established area.

Debenture
issue.

(3) When the council has passed a by-law under clause *a* of subsection 1 or under subsection 2, it may issue debentures for the purposes of clause *b*, *c* or *d* of subsection 1, and levy a special rate for the amounts required to be raised on account

of principal or sinking fund and of interest for the payment of such debentures in the area so established, enlarged or altered, and notwithstanding anything in *The Municipal Act* or in any other Act, it shall not be necessary to obtain the assent of the electors to the by-law for the issue of such debentures.

(4) The council of a township which has entered into a contract with the Commission for the supply of electrical power or energy for the use of the municipality and the inhabitants thereof in any area established under clause *a* of subsection 1 may by by-law provide for entrusting the construction of the works and the control and management thereof to a commission to be called "The Hydro-Electric Commission of (*naming the area*) of (*naming the township*)" or if the area comprises the whole township, "The Hydro-Electric Commission of the Township of (*naming the township*)".

Commission
for con-
struction
and manage-
ment of
works.

(5) It shall not be necessary to obtain the assent of the electors to the establishment of any commission under subsection 4, but the commissioners elected shall be residents of the area for which they are elected commissioners.

Assent of
electors
not neces-
sary.

(6) Upon the incorporation of any area in another area the commission, if any, for the area so incorporated shall be deemed to be disestablished and the commission, if any, for the other area shall be a commission for the combined area.

Disestab-
lishment of
commission
on incorpo-
ration with
other areas.

(7) Subject to subsection 8, where a commission has been established under this section and the members thereof have been elected, all the powers, rights, authorities and privileges which by *The Public Utilities Act* are conferred upon a municipal corporation in respect of electrical power or energy shall, while the by-law for establishing it remains in force, be exercised by the commission within the area for which it was established or within the area to which such area may have been enlarged and not by the council of the corporation.

Revenue of
commission.

(8) Nothing in this section shall divest the council of its authority with reference to providing the money required for the works, and the treasurer of the municipality shall, upon the certificate of the commission, pay out any money so provided, and nothing in this Act shall divest the council of the rights and powers conferred upon it by *The Local Improvement Act*.

Council
to provide
money for
works.

Rev. Stat.,
c. 215.

(9) Sections 42, 43, 44, 47 and 48 of *The Public Utilities Act* shall apply to every commission established under this section.

Provisions
of Rev. Stat.,
c. 320 to
apply.

(10) A by-law establishing a commission under this section may be repealed by the council at any time with the consent of the Commission and it shall not be necessary to obtain the assent of the electors to a repeal.

Repeal of
by-law
establishing
commission.

Reverting
of works.

(11) Upon the repeal of a by-law establishing a commission under this section, the control and management of the works shall be vested in the council, and the commission shall cease to exist. 1950, c. 55, s. 3.

POWERS OF MUNICIPALITIES

Supply of
light, heat
and power,
etc.

67.—(1) In addition to the powers conferred by this Act, a municipal corporation that has entered into a contract with the Commission for the supply of electrical power or energy shall have and may exercise in respect of such power or energy all the powers that are by *The Public Utilities Act* or *The Municipal Act* conferred upon corporations in respect of light and heat, and all the powers that are conferred upon corporations by *The Municipal Act* for contracting debts for any purpose within the jurisdiction of the council thereof, and also the power to expropriate land, making compensation therefor under the provisions of *The Municipal Act*.

Rev. Stat.,
cc. 320, 243.

By-law for
borrowing
money.

(2) The council of a municipal corporation may, if it sees fit, submit to the electors a by-law providing for borrowing, by the issue of debentures, the money required for any of the purposes mentioned or referred to in sections 58 and 63 and in this section at the same time as the council submits to the electors a question as to supply of electrical power under section 58, and the by-law for borrowing money may be finally passed either before or after the corporation has entered into a contract with the Commission for the supply of electrical power or energy; but the debentures authorized by the by-law shall not be issued until the corporation has entered into a contract with the Commission for the supply of such electrical power or energy.

Supplying
power
outside of
municipality.

(3) A municipal corporation that has entered into a contract with the Commission under this Act may, from time to time, with the approval of the Commission, contract with any other municipal corporation or with any person for the supply or distribution of electrical power or energy in any other municipality, and such other municipal corporation shall have authority to enter into the contract; but a municipal corporation shall not exercise the power conferred by this section in another municipality without the consent of the council thereof. R.S.O. 1937, c. 62, s. 55.

CONTRACTS OF COMMISSION

Supply of
power.

68.—(1) In addition to the powers conferred upon it by this Act or any other Act to contract with municipal corporations for the supply by it of electrical power and energy and to contract with persons pursuant to sections 59, 86 and 90, the

Commission, subject to the approval of the Lieutenant-Governor in Council, may contract with any other person for the supply of electrical power or energy to such person upon such terms and conditions as the Commission may deem proper.

(2) The revenue, or any part thereof, derived by the Commission from supplying power or energy under subsection 1 for use outside of Ontario and which in the opinion of the Commission is so derived because of anything done pursuant to section 26 may be placed to the credit of the frequency standardization reserve account. Application of revenue.

(3) Any net profit made by the Commission in supplying power or energy under subsection 1 shall be applied in reduction of the cost of electrical power or energy to municipal corporations having contracts with the Commission. Application of net profit.

(4) Net profit referred to in subsection 3 shall be determined by deducting from the revenue received from supplying power or energy under subsection 1 all moneys placed to the credit of the frequency standardization reserve account pursuant to subsection 2 and an amount determined by the Commission for costs and charges as enumerated in clauses *a*, *b* and *c* of section 74 and for the purposes of section 13 and clause *d* of subsection 1 of section 14. 1948, c. 69, s. 4, *part*. Determination of net profit.

(5) The Commission may contract with a railway company or power or transmission company for the use of its right-of-way and property for the purposes of the Commission. 1948, c. 69, s. 4, *part*; 1950, c. 55, s. 4. Use of right-of-way of railway, power and transmission companies.

69. Notwithstanding anything in section 68, it shall not be necessary to obtain the approval of the Lieutenant-Governor in Council to any contract for a supply by the Commission of electrical power or energy to any person from works that the Commission has acquired or constructed and is operating for the distribution of electrical power or energy. R.S.O. 1937, c. 62, s. 57. Approval of Lieutenant-Governor in Council not required to certain contracts.

70.—(1) If any agreement heretofore or hereafter entered into by the Commission for the supplying of electrical power or energy by the Commission to a municipal corporation or for any other work or service to be done or supplied by the Commission to a municipal corporation contains any term or condition conflicting with or contrary to this Act, the agreement shall be deemed to be amended in such manner and to such extent as to give effect to this Act. Amendment of agreements.

(2) Subject to subsection 1, where the Commission has heretofore entered, or shall hereafter enter into an agreement for the supplying of electrical power or energy by or to the Effect of approval.

Commission or for any other work or service to be done by or supplied to the Commission and such agreement has been or is hereafter approved by the Lieutenant-Governor in Council, it shall thereupon be valid and binding upon the parties thereto. 1948, c. 69, s. 5.

State of emergency.

71.—(1) Notwithstanding anything in this Act or in any general or special Act or in any contract heretofore or hereafter entered into by the Commission or by any municipal corporation for which the Commission supplies electrical power, pursuant to section 84, where at any time the Commission is of opinion that a state of emergency exists by reason of damage to or destruction, failure or breakdown of any of its works, wastage of power, power demand in excess of its power resources or other matters restricting its ability to deliver power, and the Commission so declares, the Commission may, during the state of emergency,

- (a) allocate and distribute its available power amongst the customers under such contracts and interrupt or decrease delivery of power under any contract during the continuance of the emergency; and
- (b) with the approval of the Lieutenant-Governor in Council, regulate, restrict, prohibit and control the generation, transformation, transmission, distribution, supply and use of electrical power supplied by it,

in order to effect what is in its opinion the most economical, efficient and equitable use and distribution of such electrical power. 1947, c. 79, s. 2, *part*.

Modification of restrictions.

(2) The Commission may at any time modify, restrict, suspend or re-impose any order, regulation, restriction, prohibition or control, heretofore or hereafter given, made or exercised pursuant to subsection 1.

Cessation of power delivery.

(3) The Commission may interrupt or decrease delivery of electrical power or energy in such manner and to such extent as it sees fit to any of its customers who fails to comply with any direction, order, regulation, restriction, prohibition or control given, made or exercised by it pursuant to subsection 1 by such means as it may deem proper and may enter upon any land of any such customer and do whatever is necessary for that purpose.

Entry by municipal corporation.

(4) Any municipal corporation or municipal commission receiving electrical power or energy from the Commission for distribution may interrupt or decrease delivery of electrical power or energy in such manner and to such extent as it sees fit to any of its customers who fails to comply with any

direction, order, regulation, restriction, prohibition or control given, made or exercised by the Commission pursuant to subsection 1, by such means as it may deem proper and may enter upon any land of any such customer and do whatever is necessary for that purpose.

(5) Nothing done under this section or under any direction, order, regulation, restriction, prohibition or control made or exercised by the Commission under this section or done to enforce or give effect thereto by the Commission, its servants or agents, or by any municipal corporation or municipal commission or its servants or agents, shall be deemed a breach of contract by the Commission or any municipal corporation or municipal commission or entitle any person to rescind any contract or release any guarantor from the performance of his obligation, or render the Commission, its servants or agents, or any municipal corporation or municipal commission, its or their servants or agents liable in any action-at-law or other legal proceedings for damages or otherwise. No breach of contract.

(6) Every person who refuses or neglects to comply with any direction, order, regulation, restriction, prohibition or control made or exercised by the Commission under this section shall be guilty of an offence and in addition to any other liability shall on summary conviction be liable to a penalty of not less than \$100 and not more than \$500 and a further penalty of not less than \$100 and not more than \$500 for each day upon which such refusal or neglect is repeated or continued. Penalties.

72.—(1) Where the Commission supplies or distributes power directly to the consumer either on its own behalf or by arrangement or under contract with the municipal corporation, the amount payable by the owner or occupant of any building or lot, or part of lot, for the electrical power or energy supplied to him for use therein or thereon, and all rents, rates, costs and charges in connection with the service or supply of such power or energy or the installation of any works for such service or supply shall be a lien and charge upon the building or lot or part of lot in the same manner and to the same extent as municipal taxes on land, and in default of payment the clerk of the municipality, upon being notified in writing by the Commission of the sum due, shall forthwith enter the same upon the collector's roll and it shall be collected in the same manner as municipal taxes on land and upon recovery thereof shall be paid over to the Commission; provided that when a mortgage or lease of the building or lot, or part of lot, in question, has been duly registered before an entry upon the collector's roll as above described, the lien and charge hereby created shall rank after advances actually Enforcing payment of arrears of rates and charges.

Lien for rates to be postponed on mortgages or leases prior to entry on roll.

made under such mortgage and after rent accrued due under such lease before such entry.

When
power
deemed to
be supplied.

(2) For the purposes of this section, electrical power or energy shall be deemed to be supplied to the consumer not only when it is actually used by the owner or occupant but when it is rendered available or held in reserve for him under the terms of his contract with the Commission or the municipality. R.S.O. 1937, c. 62, s. 59.

Repayment
by municip-
alities of
expenditures

73. The expenditure by the Commission upon any works undertaken under this Act for the benefit of any municipality that has entered into a contract with the Commission shall be repayable to the Commission by the municipality. R.S.O. 1937, c. 62, s. 60.

Cost of
power to
municipality.

74. Notwithstanding anything in any general or special Act passed before the 3rd day of April, 1928, or in any contract entered into before the 3rd day of April, 1928, and, except where under the terms of any such contract power or energy is to be supplied to a municipal corporation at a fixed price, the price payable for power or energy by any municipal corporation shall be the cost to the Commission, as determined by it, of supplying and delivering power or energy to the corporation, including the corporation's proportion, as adjusted by the Commission, of,

- (a) the cost of operating, maintaining, renewing and insuring the works and the cost of administration of the Commission;
- (b) interest and expenses of debt service and interest credited on the balances remaining from time to time to the credit of reserve accounts established under this Act;
- (c) an annual sum sufficient to form in 40 years, with interest at four per cent per annum, a sinking fund for the repayment of the advances made by the Province under this Act for the cost of the works, for the repayment of any other indebtedness incurred or assumed by the Commission in respect of the cost of the works, and for the restoration of any reserve or other funds of the Commission utilized for the payment of the cost of the works; and
- (d) an amount to be determined by the Commission for the purposes of sections 13 and 15 and clause *d* of section 14. R.S.O. 1937, c. 62, s. 61; 1946, c. 73, s. 11; 1948, c. 69, s. 7.

Collection
of moneys
from municip-
alities on
sinking fund
account.

75. Notwithstanding anything in this Act, a municipal corporation that has entered into or hereafter enters into a

contract with the Commission for a supply of power may be relieved by the Commission from payment of any sum on account of the sinking fund account for the first five years during which payments are made to the Commission by the corporation under such contract, and the amounts required from such corporation on sinking fund account shall be payable during the then next ensuing 40 years. R.S.O. 1937, c. 62, s. 62.

76. The Commission may, during the first three years after any municipality first begins to take power from the Commission, extend the time for payment of any sum payable by a municipality, and such municipality shall pay to the Commission interest on the amount that may be in arrear or for the payment for which time is extended until the payment thereof, at such rate not exceeding seven per cent per annum, as the Commission may determine. R.S.O. 1937, c. 62, s. 63. Extending time for payments by municipalities.

77. Any surplus held by the Commission to the credit of any municipality may be retained by the Commission as security against future obligations to the Commission of the same municipality for so long during the continuance of the contract of the municipality as the Commission may think fit, but the Commission shall allow to the municipality interest at the rate of four per cent per annum upon the amount of such surplus retained by the Commission. R.S.O. 1937, c. 62, s. 64. Surplus funds, application of.

78. Where, by contract with the Commission, one or more municipalities have assumed the cost of the purchase of, or works for the development of, electrical power for the supply of such municipality or municipalities under this Act, such municipality or municipalities shall, for the purpose of this Act, be defined as a "system", and the Commission, on such conditions as may be deemed equitable or advisable, may include in any such system one or more other such municipalities, whether already part of any system or not, and may unite any two or more systems into one system, and may join in a system two or more such municipalities whether already part of any system or not, and for the purposes of this section an area set apart under section 66, or a rural power district, may be considered as a municipality. R.S.O. 1937, c. 62, s. 65. What to be deemed a system.

79.—(1) Wherever physical connections may be made between any of the systems operating under this Act, the Commission may make the necessary connections so as to divert power from any one system to any other system, and the means of such connection, and the price to be paid by the system receiving the power to the system supply- Supplying power from one system to another.

ing the power, shall in all cases be determined by the Commission, and the cost of the power so taken by any one system from any other shall be dealt with by the Commission under this Act as the cost or part of the cost of the power to be paid by the municipalities forming part of such system, under their contracts with the Commission.

Adjustment
between
systems.

(2) The price payable for power by one system to another shall be collected by the Commission from the system owing the same for the system entitled to receive the same, and all sums so paid to any system shall be applied to the cost of construction, maintenance and operation of such system in such manner as the Commission may direct. R.S.O. 1937, c. 62, s. 66.

Apportion-
ment of
amounts
payable by
municipal-
ities.

80.—(1) The Commission shall annually adjust and apportion the amounts payable by municipal corporations under sections 74 to 79.

Annual
adjustment
of expendi-
tures for
municipal-
ities.

(2) The Commission shall also annually adjust and apportion among the municipalities all such expenditures, made by the Commission in exercise of the powers conferred upon the Commission by this Act, as have been incurred for or on behalf of the municipalities.

Adjustment
to be final.

(3) The adjustment and apportionment made by the Commission shall be final and binding upon the municipal corporations. R.S.O. 1937, c. 62, s. 67.

PART III

SUPPLY OF POWER FOR STREET LIGHTING IN TOWNSHIPS

Petition of
residents in
an area
for supply
of power
for street
lighting.

81.—(1) A majority of the resident freeholders according to the last revised assessment roll, residing within the area described in the petition and situated in the township, may petition the council of the township to take the necessary proceedings to procure from the Commission a supply of electrical power or energy for the purpose of lighting the highways in the area described in the petition.

Certificate
as to
sufficiency of
signatures.

(2) The petition shall be accompanied by the certificate of the clerk of the townships stating that the petition is signed by a majority of the resident freeholders in the area described in the petition as shown by the last revised assessment roll.

Application
by council
to the
Commission.

(3) The council of the corporation shall thereupon request the Commission to supply electrical power or energy for the purposes mentioned in the petition.

Estimate of
cost to be
furnished
on request.

(4) Upon such request the Commission shall furnish to the corporation an estimate of the cost of electrical power or

energy for the purpose of lighting the highways in the area defined in the petition, and may furnish to the corporation,

- (a) plans and specifications of the works necessary for the distribution of such power or energy;
- (b) an estimate of the cost of such works; and
- (c) such other information as the Commission may deem advisable. R.S.O. 1937, c. 62, s. 68.

82.—(1) Within one month after the delivery of the statements and estimates mentioned in section 81, the council shall, at a special meeting called for that purpose, of which notice shall have been given to each of the petitioners, consider the statements and estimates furnished by the Commission.

Consideration of the estimates, etc., by the council.

(2) If at such meeting the petitioners or any of them desire to withdraw their names from the petition they may do so, and if the remaining names are insufficient to constitute a majority of the resident freeholders in the area described in the petition, no further proceedings shall be taken thereon.

Withdrawal of petitioners.

(3) If at the close of the meeting there are sufficient names remaining of the petitioners to constitute a majority of the resident freeholders in the area described in the petition, the corporation may, without submitting a by-law to a vote of the electors, and without any of the other formalities required in the case of a by-law under Part II, pass a by-law for entering into a contract with the Commission for the supply of electrical power or energy for the purposes required by the petitioners and may enter into a contract with the Commission for that purpose.

Council may pass a by-law authorizing contract.

(4) Upon similar procedure, the corporation may, from time to time by by-law, enlarge or alter the boundaries of any such area, and thereupon the contract mentioned in subsection 3 shall apply to such area as enlarged or altered, and in the event of the enlarging of such area it shall be necessary only to have a petition from a majority of the resident freeholders in the new area; in the event of alteration of the boundaries of any such area the council, without petition, may from time to time by by-law alter the boundaries so long as such alteration does not alter by more than 10 per cent the amount of the assessment upon which the special rate is raised to meet the cost as mentioned in subsections 5 and 6; in the event of any alteration reducing by more than 10 per cent the amount of such assessment the petition must have a majority of the resident freeholders in the area remaining subject to such assessment.

Where areas altered.

Debenture
issue.

(5) The by-law may provide for the issue of debentures of the corporation, payable within 20 years from the issue thereof, to meet the cost of construction and installation of the works necessary for the distribution of the electrical power or energy, and for the levying of a special rate for payment of principal and interest, in the manner provided by *The Municipal Act*, upon the taxable property within the area described in the petition, or within such area as enlarged or altered.

Rev. Stat.,
c. 243.

Special rate
on property
affected.

(6) All moneys required to meet the costs incurred by the corporation under this Part shall be raised, levied and collected by an annual special rate upon the taxable property within the area described in the petition, or within such areas as enlarged or altered.

Council may
assume part
of cost.

(7) The council of the corporation may from time to time by by-law, without the assent of the electors, provide that the whole or such part of the costs as to the council may seem proper shall be paid by the corporation and while such by-law remains in force only the moneys required to meet the balance of the costs shall be raised in the manner prescribed in subsection 6.

Street
lighting.

Rev. Stat.,
c. 215.

(8) Notwithstanding that any street lighting in a township may have been undertaken as a local improvement under *The Local Improvement Act*, the council upon the procedure and for the purposes set out in this Part may enter into a contract with the Commission for a new area or enlarge any existing area and include in any such area the whole or any part of the lands specially assessed for the local improvements; thereafter all moneys required to meet the costs at any time incurred by the corporation in respect to street lighting in the area, whether under this Act or *The Local Improvement Act*, shall be raised, levied and collected in the manner prescribed in this Part and it shall not be necessary to levy any special rate under *The Local Improvement Act* to provide for the payments which would otherwise be levied under that Act in respect of the lands included in the area, and only that part of the cost under *The Local Improvement Act* which is specially assessed on the lands not included in such area shall be collected under that Act.

Contract,
application
of.

(9) When the corporation has entered into a contract with the Commission as provided in subsection 3, it shall not be necessary for the corporation to enter into a separate contract with the Commission for any other area in the township, but the corporation may pass a by-law making the contract applicable to the other area; thereupon the contract shall apply to the other area as fully as if the the other area had been included in the original petition for the contract.

(10) The council of the corporation may from time to time by by-law without the assent of the electors and without any petition as mentioned in this Part incorporate any such area with any other adjoining area in the township and the contract with the Commission for the area with which the other area is incorporated shall apply to the whole area.

Extension
of contract
to adjoining
areas.

(11) Where any such area is wholly or partly within an area in the township set apart by the council under section 66, the contract, with the approval of the Commission, may be made with the hydro-electric commission of the area under section 66. R.S.O. 1937, c. 62, s. 69.

Contract
may be
made with
h.e.c.

83. All the provisions of Part II, as to the annual payments to be made by corporations that have entered into contracts with the Commission, shall apply to contracts entered into under this Part, and shall extend to the works constructed under the last-mentioned contracts. R.S.O. 1937, c. 62, s. 70.

Annual
payments to
the Com-
mission.

PART IV

DISTRIBUTION OF POWER IN RURAL POWER DISTRICTS

84.—(1) Subject to the approval of the Lieutenant-Governor in Council, the Commission may contract with the corporation of a township, or townships, or with the corporations of two or more townships, for the supply and distribution by the Commission of electrical power in the township or townships.

Contracts
for supply
of power.

(2) The Commission may lay out and define areas, called "rural power districts", in the township or townships for the distribution of electrical power.

Defining
areas.

(3) The Commission may, on behalf of the corporation,

Commission
acts for
corporation.

- (a) acquire, construct, extend, reconstruct, hold, maintain, operate and administer all lands and works necessary for the transmission to and the transforming and distributing in, any such rural power district of electrical power;
- (b) supply electrical power to any customer of the corporation or at any premises in any such rural power district;
- (c) perform, enjoy and enforce all contracts in which the corporation agrees to supply or sell electrical power to any customer or at any premises in such rural power district. 1939, c. 35, s. 3, *part*.

Alterations
of
boundaries.

(4) The Commission may unite any two or more rural power districts in one rural power district and may join into a rural power district or may include in a rural power district one or more townships or any part or parts thereof whether already part of any rural power district or not and may alter the boundaries of any rural power district, and may thereupon utilize for the supply and distribution of electrical power or energy in any rural power district so formed or reconstituted or altered or that may have been so formed or reconstituted or altered all or any portion of the revenue that may be derived or may have been derived from any contract for the distribution of electrical power or energy made between the Commission and the corporation of any township forming such rural power district or any part thereof. 1939, c. 35, s. 3, *part*; 1943, c. 22, s. 8.

Signing of
contracts.

(5) Contracts in which the municipal corporation agrees to supply or sell electrical power shall be sufficiently executed on behalf of the corporation if signed by its clerk or by such other officer as may be designated by the council of the corporation. 1939, c. 35, s. 3, *part*.

Use of
moneys for
standardi-
zation of
frequency.

(6) The Commission may in its discretion use any of the revenue that may be derived or may have been derived from the distribution of electrical power or energy by the Commission on behalf of the corporation of any township forming a rural power district or any part thereof for altering, reconstructing, rebuilding, re-assembling, constructing, extending, replacing or whatever else may be necessary in respect of works held by it under subsection 3, for the purpose of standardizing and making uniform to such extent and in such manner as it may deem necessary the periodicity in alternations of current at which it supplies electrical power to customers of the corporation or at premises pursuant to subsection 3. 1948, c. 69, s. 8.

Powers of
Commission.

85. For the purposes of this Part, the Commission may exercise any of the powers that the Commission may exercise or be authorized to exercise under Part I and may upon such terms as it deems proper, sell, lease or otherwise dispose of any lands and works acquired or held for the purposes of this Part. 1939, c. 35, s. 3, *part*; 1946, c. 73, s. 12.

Right of
park board
to contract
for power.

86.—(1) Subject to the approval of the Lieutenant-Governor in Council, where any Act of the Legislature sets apart lands as a park, and provides for the appointment of a board of commissioners therefor, and makes such board of commissioners a body corporate, such board may purchase from the Commission electrical power or energy for use within the park, and may sell electrical power or energy to customers therein and execute contracts accordingly and the Commission may con-

tract with the board to supply and distribute such electrical power or energy.

(2) Upon the execution of a contract between the Commission and any such board, the Commission may make any such park a rural power district or part of a rural power district or incorporate the whole or any part of such park in any rural power district and the provisions of this or any other Act applying to a rural power district shall be applicable. R.S.O. 1937, c. 62, s. 72.

When park
not to be rural
power
district.

87. When at the time of entering into the contract the corporation of any such township has been operating a distribution system for distributing electrical power or energy to inhabitants of the township, or has a contract with the Commission for a supply of electrical power or energy under any other Part of this Act, the Commission, with the approval of the corporation, may take over, acquire, reconstruct, extend and operate such distribution system, and may perform, enjoy and enforce the contracts with the customers thereof, and may incorporate such system in a rural power district. R.S.O. 1937, c. 62, s. 73.

Commission
may take
over existing
distribution
system.

88. Notwithstanding anything in this Act, where the trustees of a police village have not a subsisting contract with the Commission, it shall not be considered a separate corporation from the township or townships out of which it was formed for the purposes of this Part. R.S.O. 1937, c. 62, s. 74.

Police village
not to be
deemed
separate
corporation.

89. The council of the township or the council of each of the townships entering into a contract under section 84 or 87 may pass a by-law for entering into the contract, and the corporation of the township may execute the contract, and it shall not be necessary to submit the by-law to the vote of the electors or to comply with any of the other formalities required in the case of a by-law under Part II. R.S.O. 1937, c. 62, s. 75.

Assent of
electors not
required to
contract.

90.—(1) The Commission may enter into an agreement or agreements with His Majesty in right of Ontario providing for the supply and distribution of electrical power or energy by the Commission on behalf of the Province in unorganized townships, in provincial parks and in other territory without municipal organization and including under any such agreement from time to time any one or more of the areas that may be defined under subsection 2, and any such agreement, when executed by the President of the Executive Council, representing His Majesty, and by the Commission, shall be valid

Agreement
as to
supplying
power.

and binding on His Majesty in right of Ontario and on the Commission respectively.

Commission
may define
areas.

(2) Subject to the approval of the Lieutenant-Governor in Council, the Commission may define areas in unorganized townships, in provincial parks and in other territory without municipal organization; the Commission may make any such area or areas a rural power district or part thereof, or part of an existing rural power district; the Commission may alter, enlarge or diminish any such area and may incorporate the whole or any part of any such area in any other rural power district, but before adding to any area land not previously included in any area, the approval of the Lieutenant-Governor in Council shall first be obtained; for the purposes of this section a rural power district shall include any such district established under this section or under section 84. R.S.O. 1937, c. 62, s. 76 (1, 2).

Supply of
power.

(3) In any such area, the Commission may,

- (a) acquire, construct, extend, reconstruct, hold, maintain, operate and administer all lands and works necessary for the transmission to and the transformation and distribution and supply of electrical power or energy in any such area;
- (b) distribute and supply electrical power or energy in any such area;
- (c) contract with any person, firm or corporation for the supply of electrical power or energy in any such area. R.S.O. 1937, c. 62, s. 76 (3); 1939, c. 35, s. 4.

Deemed
rural
power.

(4) Save as in this section provided, all other provisions in relation to rural power districts in this or any other Act shall apply to each such area and the distribution and supply of electrical power or energy therein. R.S.O. 1937, c. 62, s. 76 (4).

Application
of Part II as
to annual
payments.

91. All the provisions of Part II as to the annual payments to be made by the corporations that have entered into contracts with the Commission shall apply to a contract entered into under this Part, and shall extend to the works constructed under the contract for transforming, distributing and supplying electrical power or energy in a rural power district except where the contract is with a municipal corporation for the supply of power from any of the works mentioned in section 59. R.S.O. 1937, c. 62, s. 77; 1939, c. 35, s. 5.

Rates to be
fixed by
Commission.

92. The rates to be charged to customers receiving electrical power or energy from the Commission in a rural power

district or any section thereof shall be fixed by the Commission under this Act. R.S.O. 1937, c. 62, s. 78; 1939, c. 35, s. 6; 1943, c. 22, s. 9.

93. The Commission shall fix, adjust and apportion annually the cost of all the works mentioned in sections 84 and 87 to be borne by each of the municipal corporations entering into any such contract. R.S.O. 1937, c. 62, s. 79.

Apportionment of cost on annual adjustment.

STREET LIGHTING IN RURAL POWER DISTRICTS

94.—(1) A corporation that has entered into a contract with the Commission under this Part may, under procedure similar to that provided in Part III, enter into a contract with the Commission for the lighting by the Commission of highways in any area in a rural power district, and in pursuance of such contract, the Commission may, on behalf of the corporation, acquire, construct, extend, reconstruct, hold, maintain, operate and administer all works necessary for the lighting of the highways in such area, and the by-law of the corporation need not provide for the issue of debentures of the corporation to meet the cost of construction and installation of the works necessary for the distribution of the electrical power or energy.

Lighting of highways.

(2) Under similar procedure the corporation, with the approval of the Commission, may enlarge or alter the boundaries of any such area within any rural power district, and thereupon the contract mentioned in subsection 1 shall apply to such area as enlarged or altered.

Where areas enlarged.

(3) All the works mentioned in subsection 1 shall be deemed street lighting works and shall not form any part of the primary or secondary lines in the rural power district.

Street lighting works.

(4) All the provisions of Part II as to the annual payments to be made by the corporations that have entered into contracts with the Commission shall apply to a contract entered into under this section and shall extend to all works constructed under such contract.

Part II to apply.

(5) All moneys required to meet the costs incurred by the corporation under this section shall be raised, levied and collected by an annual special rate upon the taxable property lying within the area described in the petition, or within such area as enlarged or altered.

Raising of moneys.

(6) The council of the corporation may from time to time by by-law provide that the whole or such part of the said costs as to the council may seem proper shall be paid by the corporation and be chargeable to the municipality as a whole and while the by-law remains in force only the moneys required

Council may assume part of cost.

to meet the balance of the said costs shall be raised in the manner prescribed in subsection 5, and the assent of the electors shall not be required to any such by-law.

Lighting
highways
in local
areas.

(7) Whenever the corporation has entered into a contract with the Commission under Part III for the supply of electrical power or energy for the purposes required by the petitioners in any area, the corporation, without a petition or any of the other preliminary proceedings provided in Part III, may by by-law enter into a contract with the Commission for lighting the highways in such area under this Part and thereafter all the provisions of this Part shall apply to such area and the lighting of the highways therein in lieu of the provisions of Part III.

Application
of subss. 8 to
10 of s. 82.

(8) Subsections 8, 9 and 10 of section 82 shall apply *mutatis mutandis* to any contract and to any area under this section. R.S.O. 1937, c. 62, s. 80.

Lighting
of highways
without a
petition.

95.—(1) Notwithstanding anything in this or any other Act, the council of a township that has entered into a contract with the Commission under this Part, may, without petition and without submitting a by-law to a vote of the electors, enter into a contract with the Commission for the lighting by the Commission of highways in the municipality, and pursuant to such contract, the Commission, on behalf of the corporation, may acquire, construct, extend, reconstruct, hold, maintain, operate and administer all works necessary for the lighting of the highways and a by-law of the corporation authorizing the execution of the contract by the corporation need not provide for the issue of debentures of the corporation to meet the cost of construction and installation of the works necessary for this purpose.

Street
lighting
works.

(2) All the works mentioned in subsection 1 shall be deemed street lighting works and shall not form any part of the primary or secondary lines in a rural power district.

Part II
as to annual
payment
to apply.

(3) The provisions of Part II with respect to the annual payments to be made by any corporation that has entered into a contract with the Commission shall apply to any contract entered into under this section and shall extend to all works constructed under such contract.

Charging
of cost.

(4) Notwithstanding anything in this or any other Act, the cost incurred by the corporation under this section shall be paid by the corporation and be chargeable to the municipality as a whole and the assent of the electors to a by-law for such purpose shall not be required. 1950, c. 55, s. 5.

PART V

CONTROL AND REGULATION BY COMMISSION

96. In this section and in sections 97, 98 and 100,

Interpreta-
tion.

- (a) "corporation" means a municipal corporation, an incorporated company, or an individual or firm duly authorized by municipal by-law or agreement to construct and operate works for conducting, furnishing or distributing electricity for light, heat or power purposes in, under or upon any highway, and includes any board or commission incorporated or unincorporated acting on behalf of a municipal corporation or of the inhabitants of a municipality;
- (b) "highway" includes a street, lane, road, square or other public communication;
- (c) "works" includes wires, pipes, poles, conduits, ducts and other fixtures, appliances or apparatus. R.S.O. 1937, c. 62, s. 81.

97.—(1) Where a corporation has constructed or desires to construct works for conducting, furnishing or distributing electricity for light, heat or power purposes, in, under or upon any highway, or part of a highway, in, under or upon which any other corporation has already constructed and has works for the like purposes, or any of them, upon the application of the first-mentioned corporation and after notice to the other and hearing any objections that it may make, the Commission may, if it is of opinion that the location and mode of construction of such works are proper, approve thereof, and all works that the first-mentioned corporation has constructed or may thereafter construct, the location and mode of construction of which have been so approved, shall be deemed to have been constructed under statutory authority and to be lawfully constructed, and may be maintained and operated by such corporation without its incurring any liability to any other corporation in respect of the construction, maintenance or operation of such works, except that provided for by section 98, notwithstanding any statute or law to the contrary.

Approval of
distributing
works.

(2) Such approval may be given subject to such conditions as the Commission may deem necessary to prevent injury to the works of the other corporation, or to its works, servants or workmen in maintaining, repairing or operating them.

Approval
upon con-
ditions.

(3) Where the Commission is of opinion that it is necessary or expedient, in order to prevent danger from contact between

Insulation.

the wires of different corporations or from any other cause, that insulators or other appliances be affixed to the poles of either corporation, or that the wires of either of them be attached to the insulators or other appliances, the Commission may authorize or direct the insulators or other appliances to be so affixed and the wires to be so attached in such manner as the Commission may deem best calculated to prevent such danger, and anything done by either corporation pursuant to such authority or direction shall be deemed to be done lawfully.

Works to be done at expense of initiating corporation.

(4) Anything authorized or directed to be done under subsection 3 shall be done at the expense of a corporation constructing the works in a locality in which works have already been constructed by another corporation and under such supervision as the Commission may direct. R.S.O. 1937, c. 62, s. 82.

Claims for damages by one corporation against another.

98.—(1) If any damage or injury is done to the works of a corporation or any of them, or is occasioned in the maintenance or operation of them, by reason of the works of another corporation or any of them being constructed or operated in closer proximity to the works of the first-mentioned corporation than, but for section 97, would have been lawful, no action shall lie in respect thereof, but the corporation doing the damage or injury shall make due compensation therefor, and any question or dispute as to the damage or injury having been so done or occasioned or as to the amount of the compensation, shall be determined by arbitration, and the provisions of *The Municipal Act* with respect to arbitration in the case of claims against municipal corporations shall apply *mutatis mutandis* to the procedure upon an arbitration under this section.

Rev. Stat., c. 243.

Notice of claim.

(2) The corporation claiming damages shall, within one month after the expiration of any calendar year in which it claims that any such damage or injury has been so done or occasioned, give notice in writing to the other corporation of its claim and of the particulars thereof, and upon failure to do so the right to compensation in respect of the damage or injury done or occasioned during that calendar year shall be barred forever. R.S.O. 1937, c. 62, s. 83.

Exclusive jurisdiction of Commission.

99. The Commission shall have exclusive jurisdiction as to all matters in respect of which authority is by sections 96, 97 and 98 conferred upon it, and nothing done by the Commission within its jurisdiction shall be open to question or review in any action or proceeding or by any court. R.S.O. 1937, c. 62, s. 84.

Jurisdiction of courts ousted.

100. No court shall have authority to grant or shall grant an injunction or other order restraining, either temporarily

or otherwise, the construction, maintenance or operation of any works the location and mode of construction of which have been approved by the Commission if such works are being, or have been constructed in the place and according to the mode so approved. R.S.O. 1937, c. 62, s. 85.

101.—(1) Upon the complaint in writing of any municipal corporation, company or person that any municipal corporation, company or person receiving power from the Commission is charging for electric lighting or heating or for electrical power or energy a rate that is excessive or unfair, or that any municipal corporation is making use of the power conferred upon it by this Act for the purpose of granting a bonus by supplying power, light or heat below cost to manufacturers or others, the chairman of the Commission may appoint a time and place at which the Commission or some member thereof will hear and determine the matter of the complaint, and such notice of the appointment as the chairman may direct shall be given by the secretary of the Commission to such persons as the chairman may direct.

Complaints as to rates charged for light, heat or power.

(2) At the time and place appointed the Commission or a member thereof shall hear and determine the matter of the complaint, and may dismiss or allow the complaint, and may regulate and determine the rates to be charged, and may direct the amendment of any by-law or agreement accordingly, or may make such order as may seem meet.

Hearing of complaints and regulation of rates.

(3) The Commission, or the member thereof hearing the complaint, shall have all the powers that may be conferred upon a commissioner under *The Public Inquiries Act*. R.S.O. 1937, c. 62, s. 86.

Powers of Commission on inquiry. Rev. Stat., c. 308.

102.—(1) The Commission, with the approval of the Lieutenant-Governor in Council, may make rules and regulations,

Regulations as to,

- (a) prescribing the design, construction, installation, protection, use, maintenance, repair, extension, alteration, connection and disconnection of all works and matters used or to be used in the generation, transformation, transmission, distribution, delivery or use of electrical power or energy in Ontario;
 - (b) prohibiting the use in Ontario of any such works or matters until they have been inspected and approved;
 - (c) prohibiting the advertising, display, offering for sale, or other disposal, and the sale or other disposal, publicly or privately, in Ontario, of any such works
- construction of works, etc.;
use of works until authorized;
advertising or sale of works in unauthorized manner;

or matters unless and until they have been inspected and approved, and prescribing the precautions to be taken in the sale or other disposal of such works or matters and the warnings and instructions to be given to purchasers and others in advertisements and by circular or otherwise in order to prevent their use in such manner or under such conditions as may be likely to result in undue hazard to persons or property;

inspection,
test and
approval.

(d) providing for the inspection, test and approval of all such works and matters before being used for any such purposes.

Issuing of
plans and
specifica-
tions.

(2) The Commission may prepare and issue plans and specifications governing the design, construction and test of any of the works or matters mentioned in subsection 1, and may amend or alter such plans and specifications. R.S.O. 1937, c. 62, s. 87 (1, 2).

Appointment
of persons
or associa-
tions to in-
spect and
test.

(3) The Commission may appoint persons or associations having, in the opinion of the Commission, special knowledge and facilities to inspect, test and report upon any of the works or matters mentioned in subsection 1.

Approval by
adoption of
report.

(4) The Commission may approve of any of the works or matters mentioned in subsection 1 by adopting the report made pursuant to subsection 3 or otherwise as the Commission may deem advisable. 1950, c. 55, s. 6.

Orders
relating to
installations,
alterations,
etc.

(5) The Commission may issue such orders relating to work to be done in the installation, removal, alteration, repair, protection, connection or disconnection of any of the works or matters mentioned in subsection 1 as the Commission may deem necessary for the safety of the public, or of workmen, or for the protection of property.

Appoint-
ment of
inspectorial
staff.

(6) The Commission may appoint such inspectors and other officers as it may deem necessary for the purposes of this section.

Fees for
permits,
inspection,
test and
approval.

(7) The Commission may prescribe the fees to be paid for permits and for inspection, test and approval of all such works and matters mentioned in subsection 1 and of plans and specifications relating thereto, and may prescribe also the time and manner of payment of such fees.

Collection
and dis-
position of
fees and
fines.

(8) The Commission shall collect the fees prescribed by it under the authority of subsection 7, and shall provide for the remuneration, travelling and other expenses of the inspectors and other qualified persons, together with all other expenses incurred in carrying out the provisions of this section,

out of such fees and out of any fines imposed for breach of any of the provisions of this section or of any rules, regulations, plans, specifications or orders made under the authority thereof, and out of the funds appropriated for carrying out the work of the Commission.

(9) Every inspector appointed under this section may enter upon, pass over or through any land, building or premises at any reasonable hour for the purpose of performing the duties assigned to him under this section. Powers of inspectors.

(10) Nothing in this Act or in any of the rules or regulations, plans, specifications or orders issued under the authority of this section shall render the Commission or any of its inspectors or other employees liable, or shall affect the liability of any municipal or other corporation or commission, company, firm or individual, for any injury, loss or other damages caused to any person or property by reason of defects in any of the works or matters mentioned in this section or by reason of any order of the Commission, notwithstanding any inspection or test or the issue of any certificate by the Commission or by any of its inspectors or other employees. Liability.

(11) Every municipal or other corporation or commission, and every company, firm or individual, Penalties,

(a) hindering, molesting, disturbing or interfering with an inspector or other employee in the performance of his duty under this section shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$10 and not more than \$50 for each offence; for interference;

(b) refusing or neglecting to comply with the provisions of this section, or with any rule or regulation, plan or specification made under the authority thereof, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$10 and not more than \$50 for each offence; for disobedience to regulations;

(c) refusing or neglecting to comply with any order issued by the Commission under subsection 5 shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$100 and not more than \$500 and a further penalty of not less than \$100 and not more than \$500 for each and every day upon which such refusal or neglect is repeated or continued. for disobedience to order.

(12) The penalties recovered for an offence against this section shall be paid over to the Commission. Penalties paid to Commission.

(13) This section shall not apply to any mine as defined under *The Mining Act*, save only as regards any dwelling Section not to apply to mines. Rev. Stat., c. 236.

house or other building not connected with or required for mining operations or purposes or used for the treatment of ore or mineral. R.S.O. 1937, c. 62, s. 87 (3-11).

Proving regulations as to installations, etc.

(14) The rules and regulations made pursuant to this section may be proved by the production of a copy of such rules and regulations certified to by the secretary and bearing the seal of the Commission and the production of such certified copy bearing the seal of the Commission shall be *prima facie* evidence of the due execution thereof by the secretary. R.S.O. 1937, c. 62, s. 87 (12); 1944, c. 46, s. 5.

Debentures for extension or improvement not to be issued without approval of Commission.

103.—(1) A municipal corporation that has entered into a contract with the Commission for the supply of electrical power or energy shall not pass a by-law for the issue of debentures, or borrow money by other means, for any extension or improvement to an electrical light, heat or power system without having first obtained the assent of the Commission to the amount of such issue and borrowing and the purposes to which the proceeds of the issue are to be applied.

Liability of members of council.

(2) Every member of the council of a municipal corporation passing a by-law in contravention of subsection 1 shall be personally responsible for any loss or expense occasioned to the corporation by such action unless he shows that he voted against the passing of the by-law or did everything in his power to prevent the passing of the by-law.

By-law to be void.

(3) Every by-law passed in contravention of subsection 1 shall be illegal and void, and the Commission may take the same proceedings for quashing the by-law, or restraining the corporation from issuing debentures thereunder, as might be taken by a ratepayer of the municipality.

Section to have effect notwithstanding other enactments.

(4) This section shall have effect notwithstanding the provisions of any other general or special Act relating to any municipal corporation.

Issue of debentures when Commission approves estimated cost.

(5) The provisions of this section shall not apply to any by-law or by-laws authorizing the issue of debentures to defray the cost of, or to repay temporary loans incurred in connection with any works mentioned in subsection 1, when the estimated cost of such works and the borrowing of the estimated cost has been approved by the Commission and the principal amount of the debentures so authorized does not exceed the estimated cost aforesaid by more than five per cent.

Restriction as to application of local improvement by-law.
Rev. Stat., c. 215.

(6) Equipment, plant and works constructed and erected on petition only as defined in clause *n* of subsection 1 of section 2 of *The Local Improvement Act* shall not be deemed extensions or improvements within the meaning of this section. R.S.O. 1937, c. 62, s. 88.

104.—(1) The rates chargeable by any municipal corporation generating or receiving and distributing electrical power or energy shall be subject at all times to the approval and control of the Commission, and the rates charged by any company or individual receiving power from the Commission for the supply of electrical power or energy shall be subject at all times to such approval and control. Rates to be approved.

(2) Notwithstanding anything in this Act, the Commission may from time to time, when in its opinion it is in the interests of the municipal corporations under contract with the Commission so to do, make orders fixing the rates to be charged by the corporation or commission of any municipality having a population of less than 200,000 for electrical power or energy supplied by the Commission. Powers as to fixing municipal rates.

(3) In a municipality where the rates fixed by the Commission under subsection 2 prove insufficient to provide for the costs of supplying electrical power or energy in the municipality, the Commission may charge the deficit to the stabilization fund account and may from time to time impose such terms as to repayment of the amount so charged together with interest thereon, or any part thereof, or may relieve the municipality from obligation to repay the same to such extent as to the Commission may seem just and equitable. R.S.O. 1937, c. 62, s. 89. Where amount collected proves insufficient.

105.—(1) The Commission may prescribe for any municipal corporation or municipal commission receiving electrical power or energy from the Commission for distribution a system of bookkeeping and keeping accounts of the assets, liabilities, revenues and expenditures in respect of the production, development, distribution or sale of electrical power or energy or the dealing in electrical fittings, fixtures, appliances, machines or equipment. System of bookkeeping.

(2) The Commission may require from any municipal corporation or municipal commission which owns, operates, controls or manages an electrical public utility receiving electrical power or energy from the Commission for distribution such returns and statements as the Commission may deem proper, and the Commission shall have access to and the right to inspect the books, records, minutes, statements and returns relating to such electrical public utility and to extract therefrom such information as in the opinion of the Commission may be useful for publication and to embody any of the information in the reports of the Commission. 1946, c. 73, s. 13. Returns and statements.

106. Section 77 of *The Ontario Municipal Board Act* shall not apply to municipal corporations or municipal commis- Jurisdiction of Ontario Municipal Board. Rev. Stat., c. 262.

sions that are subject to the provisions of sections 104 and 105 of this Act in so far as such sections relate to the development or distribution of electrical power or energy. R.S.O. 1937, c. 62, s. 91.

Insurance
by municipi-
palities.

107.—(1) Every municipal corporation and municipal commission having a contract with the Commission for the supply of electrical power or energy shall maintain insurance against loss or damage to the person and property of employees and others occurring during the course of the operations of such corporation or commission. R.S.O. 1937, c. 62, s. 92 (1).

Amount
and terms.

(2) The insurance shall be for such amount and upon such terms and conditions as the Commission may direct and approve, and a contract of insurance for the purpose of this section may protect more than one municipal corporation or municipal commission as the insured thereunder. R.S.O. 1937, c. 62, s. 92 (2); 1950, c. 55, s. 7 (1).

Insurance
fund.

(3) In lieu of such insurance, such corporation or commission may, with the approval of the Commission, establish a fund sufficient, in the opinion of the Commission, to protect the corporation or commission against any such loss or damage.

Group
insurance
for municipi-
palities.

(4) The Commission, at the request of any municipal corporation or commission, may enter into a contract with an insurance corporation for effecting such insurance on behalf of the municipal corporation or commission as may be required under subsections 1 and 2, notwithstanding anything in *The Insurance Act* or any other general or special Act to the contrary, and the cost of insurance so affected by the Commission in default of payment shall be chargeable to the municipal corporation or commission as part of the cost of power payable by the municipal corporation or commission under section 74. R.S.O. 1937, c. 62, s. 92 (3, 4).

Rev. Stat.,
c. 183.

Where
insurance
not
necessary.
Rev. Stat.,
c. 430.

(5) Where any municipal corporation or commission is in Schedule 1 of the regulations made under *The Workmen's Compensation Act* and is paying assessment to the Workmen's Compensation Board, notwithstanding any other provision in this Act, it shall not be necessary for such municipal corporation or commission to maintain insurance against injury to the persons of employees. 1950, c. 55, s. 7 (2).

Collection
of arrears on
direction
from Com-
mission.

108. Where it appears to the Commission, upon the examination of the accounts of any municipal corporation or municipal commission receiving power from the Commission under a contract between the municipal corporation and the

Commission under this Act, that there are arrears due and owing for electrical power or energy supplied by the municipal corporation or municipal commission, or for rents, rates, costs and charges in connection with the service or supply of such power or energy or for the installation of any works for such service or supply, and that the municipal corporation or municipal commission has not taken the necessary proceedings for the collection of such arrears, the Commission may give, in writing, such directions as it may deem proper, signed by the chairman or secretary, for the collection of the arrears by any method by which they may be collected, and it shall be the duty of the municipal corporation or municipal commission forthwith after receiving such directions to take all proceedings necessary to carry them into effect. R.S.O. 1937, c. 62, s. 93.

109. Where a municipal corporation or a municipal commission receiving electrical power or energy from the Commission under a contract made with the Commission in pursuance of the provisions of this Act, Offences and penalties.

- (a) supplies electrical power or energy to any person upon terms and at rates other than those which have been approved of by the Commission;
- (b) grants to any person to whom electrical power or energy is supplied by the municipal corporation or commission, special terms by way of bonus or otherwise as to the rates to be paid for electrical power or energy, or as to the terms at which they are to be supplied;
- (c) neglects or refuses to carry out any direction of the Commission given under section 108;
- (d) by any means whatsoever, directly or indirectly reduces the cost of electrical power or energy to any individual, firm or corporation so that it is supplied to such individual, firm or corporation at a lower rate or upon better terms than those approved of by the Commission;
- (e) fails to keep accounts in the manner prescribed by the Commission or makes improper entries therein, or charges against any account items not properly chargeable thereto,

such municipal corporation or municipal commission shall be guilty of an offence, and every member of the municipal council of such municipal corporation or every member of the municipal commission, as the case may be, shall be disqualified from sitting and voting in the council or from Disqualification of councillor or commissioner.

Rev. Stat.,
c. 243.

election thereto, or from acting as a member of the municipal commission or being appointed thereto, and from holding any other municipal office for a period of five years from the date of judgment or order declaring his disqualification, and proceedings may be taken against him in the same manner as in the case of a member of a municipal council who has become disqualified or has forfeited his seat under *The Municipal Act*; provided that no member of the municipal council or of the municipal commission, as the case may be, shall be found to be so disqualified who proves to the satisfaction of the court or judge before whom the application for a declaration of his disqualification is made, that he was not a party to the offence and that he did everything in his power to prevent the commission of the offence. R.S.O. 1937, c. 62, s. 94.

When
default made
Commission
may take
action.

110. When a municipal corporation or a municipal commission neglects or refuses to carry out any of the provisions of this Act, or any direction or regulation lawfully given or made under this Act, the Commission, if it deems it necessary or desirable so to do, may appoint some person to do whatever is necessary to remedy such neglect or default and to comply with this Act or any such direction or regulation, and the reasonable and proper costs and charges incurred by the Commission in so doing shall be a debt due and payable by the municipal corporation or municipal commission to the Commission and shall be added to and shall be chargeable and collected with the charges set out in section 74. R.S.O. 1937, c. 62, s. 95.

Utilization
of funds,

111. A municipal corporation or municipal commission receiving electrical power or energy from the Commission for distribution may, subject to the approval of the Commission, utilize funds in its hands derived from or pertaining to the electric utility for which such power or energy is received and not required for current operating expenses or current working capital thereof in the following manner and not otherwise,

reduction of
indebted-
ness;

(a) in the reduction of any indebtedness incurred with respect to the construction and equipment of works for the production, development, distribution or sale of electrical power or energy; or

erection of
buildings;

(b) in purchasing or otherwise acquiring a site and erecting thereon buildings for the occupation and use of the municipal commission as offices and for other business purposes, subject to the approval by the Commission of the site and cost of the plans of any such building, and, subject to such approval, any such office building may be larger than is required for the immediate use of the municipal commission,

and any part of such building not immediately required for the use of the municipal commission may be leased by it to the corporation or to any other municipal commission for the purpose of any public utility in the municipality; or

- (c) in the renewal of such buildings; or renewal of buildings;
- (d) in the extension of works for the production, development, distribution or sale of electrical power or energy or in the alteration, reconstruction, rebuilding, re-assembling, construction, replacing or whatever else may be necessary in respect of such works for the purpose of receiving from the Commission and distributing electrical power or energy at a changed periodicity in alternations of current; or extension, etc., of works;
- (e) in the purchase of such marketable securities and on such terms as the Commission may approve. 1946, c. 73, s. 14; 1948, c. 69, s. 9. purchase of marketable securities.

112.—(1) Whenever it appears from the accounts of a municipal corporation or municipal commission receiving electrical power or energy from the Commission for distribution that there is a surplus of revenue derived from or pertaining to an electric utility over the expenses thereof after providing for any payments required to be made on account of principal or interest of any debentures issued for the construction and equipment of works for the production, development, distribution or sale of electrical power or energy, and for such depreciation and other reserves as the Commission may deem proper, the surplus shall be applied and disposed of in such manner as the Commission may by general regulation or special order direct, When accounts of a corporation show a surplus,

- (a) in altering, reconstructing, rebuilding, re-assembling, constructing, replacing or doing whatever else may be necessary in respect of works for the production, development, distribution or sale of electrical power or energy for the purpose of receiving from the Commission and distributing electrical power or energy at a changed periodicity in alternations of current; alteration of works;
- (b) in repaying to persons to whom electrical power or energy is being supplied by such municipal corporation or municipal commission money paid by them for electrical power or energy so supplied, such repayment being made either directly or by a credit on or reduction in bills for electrical power or energy; or in repayment to customers;

to general
purposes of
municipal
corporations.

(c) to the extent to which such surplus is derived from the supply of electrical power or energy for the lighting of the streets of the municipality or for the operation of any street railway or electric railway or any public utility of the corporation other than an electric utility, by payment over of such surplus or of such portion thereof as the Commission may deem proper, to the treasurer of the municipality to be applied to the general purposes of the corporation. 1946, c. 73, s. 15, *part*; 1948, c. 69, s. 10.

Application
of section
notwith-
standing
special
provisions.

(2) Subsection 1 shall apply to every municipal corporation or municipal commission that has entered into a contract with the Commission for the supply of electrical power or energy, and shall have effect notwithstanding any provision in any general or special Act, and shall be deemed so to have applied and to have had effect since the 16th day of April, 1912. R.S.O. 1937, c. 62, s. 96 (2); 1944, c. 46, s. 6 (2).

Liability for
misapplica-
tion of funds.

(3) Any member of the council of a municipal corporation and any member of a municipal commission where such municipal corporation or municipal commission is receiving electrical power or energy from the Commission for distribution by an electric utility, who is in any manner a party to any disposition or application of a surplus referred to in subsection 1 other than that directed by the Commission, or to any disposition, use, application or dealing with funds pertaining to such electric utility in any manner prohibited by this or any other Act shall forfeit his office and proceedings may thereupon be taken against him as provided in *The Municipal Act* in the case of a member of a municipal council who has become disqualified, and the Commission may take the same proceedings in respect thereof as might be taken by a ratepayer of the municipality. 1946, c. 73, s. 15, *part*.

Rev. Stat.,
c. 213.

Disqualifi-
cation.

(4) If it is found upon such proceedings that such member of the municipal council or commission has forfeited his office, he shall be disqualified from holding any municipal office for a period of two years thereafter. R.S.O. 1937, c. 62, s. 96 (4).

Orders of
Commis-
sion,
penalty for
disobeying.

113. A municipal corporation or municipal commission and any company or individual neglecting or refusing to obey and carry out any order, regulation, prohibition or direction of the Commission or of a member thereof made under section 101, or any order, regulation, prohibition or direction of the Commission made under sections 71, 102, 104, 105, 107, 108, 109 and 112, in addition to any other liability, shall forfeit to His Majesty for the use of Ontario, the sum of \$100 for each day during which such neglect or refusal continues. 1947, c. 79, s. 3.

114.—(1) Where the Commission is of opinion that it is necessary or expedient for the protection of life or property, ^{Ordering wires under ground.} or for the convenience of the public, that the use of overhead lines upon any highway or part thereof in a city or town, including the wires of telegraph, telephone, electric light, heat or power companies, should be discontinued, the Commission may so direct, and, upon such terms and subject to such conditions as it may prescribe, may require that such wires be placed and carried in underground conduits to be constructed and maintained in accordance with the directions and to the satisfaction of the Commission, and may abrogate any right to carry lines on poles in such city or town that may have been given by any Act or by any municipal by-law, licence or agreement. R.S.O. 1937, c. 62, s. 98 (1); 1938, c. 37, s. 19 (2).

(2) In this section, as in sections 115 to 119,

^{Interpretation.}

- (a) “lines” means the wires, cables or other conductors used for the purpose of conveying or distributing electricity or electrical power or energy, for telegraph, telephone or electric light, heat or power purposes;
- (b) “company” includes a municipal corporation or municipal commission, a partnership and an individual, owning, leasing, using or controlling lines in a city or town. R.S.O. 1937, c. 62, s. 98 (2).

115. Where the corporation of the city or town is willing to undertake the construction of a tunnel or conduits or other system for carrying lines underground in any highway or part thereof, the Commission, upon such terms and subject to such conditions as it may prescribe, may require all companies whose lines are carried overhead upon any such highway or public communication to make use of such tunnel or conduits or other system for the purpose of carrying their lines, and to pay to the corporation such compensation for the use thereof as may be agreed upon or as the Commission may determine, and such compensation may be either a lump sum or a sum to be paid annually or periodically as the Commission may determine and direct. R.S.O. 1937, c. 62, s. 99. ^{Construction of tunnel by municipal corporation.}

116. Where the corporation of a city or town desires to construct a tunnel, conduits or other system for the purpose mentioned in section 115, the corporation may do so and may exercise in respect thereof the powers of expropriation conferred upon the corporation by *The Municipal Act*. R.S.O. ^{Powers of corporation of city or town.} 1937, c. 62, s. 100. ^{Rev. Stat., c. 243.}

117. All works undertaken under sections 115 and 116 shall be done in accordance with the directions and to the ^{Work to be subject to direction of Commission.}

satisfaction of the Commission, and shall be maintained, kept in repair, altered, enlarged or improved to the satisfaction of the Commission and as it may direct. R.S.O. 1937, c. 62, s. 101.

Overhead
lines, dis-
obedience
of orders
respecting.

118. If any order or direction of the Commission for discontinuing the use of overhead lines is not obeyed, the lines, poles and other structures in connection therewith upon the highway shall be deemed to be unlawfully erected and maintained, and may be removed by or under the direction of the Commission and at the expense of the owner or user of them, and the company owning or using such lines shall incur a penalty of \$100 for each day during which the order of the Commission is disobeyed. R.S.O. 1937, c. 62, s. 102.

Under-
ground
lines.

Joint order
by Commis-
sion and
Dominion
Transport
Board.

119.—(1) Where lines, the construction or operation of which is authorized by the Legislature, and lines the construction of which is authorized by the Parliament of Canada, run through or into the same city or town, and the corporation of such city or town is desirous of having such lines placed underground, the Commission and the Board of Transport Commissioners for Canada may, after the receipt of the applications hereinafter mentioned, by joint session or conference in conformity with the practice to be established by them, hear and determine the application, and may order, on such terms and conditions as they may prescribe, any company constructing or operating lines in the city or town to place such lines underground, and may abrogate any right to carry lines on poles in such city or town, which may have been given by any Act or municipal by-law, licence or agreement.

Filing
applications
for order.

(2) Any such company, or any municipal corporation or other public body, or any person interested, may file with the secretary of the Commission, and with the secretary of the Board of Transport Commissioners for Canada, the application for an order under this section, together with evidence of the service of such application upon the companies interested or affected, and where the application is not made by the municipal corporation, upon the head of the municipality within which the lines are situate.

Rules of
procedure.

(3) The chairman of the Commission and the chairman of the Board of Transport Commissioners for Canada may make rules of procedure and practice covering the making of such applications and the hearing and disposition thereof.

Membership
of joint
board.

(4) The chairman of the Commission and the chairman of the Board of Transport Commissioners for Canada may from time to time assign or appoint from each body the members

comprising the joint board that may be required to sit for the hearing and determining of such applications as they arise.

(5) Any such order may be made a rule of the Exchequer Court of Canada, and may be enforced in like manner as any rule, order or decree of such court. R.S.O. 1937, c. 62, s. 103. Enforcement of orders.

PART VI

MUNICIPAL COMMISSIONS

120.—(1) Except as provided in this section, notwithstanding anything in any general or special Act, subsection 3 of section 40 of *The Public Utilities Act* shall apply in every city and town that has entered into a contract with the Commission for the supply of electrical power or energy, and a commission shall be established under Part III of *The Public Utilities Act* for the control and management of the construction, operation and maintenance of all works undertaken by the corporation for the distribution and supply of electrical power or energy. R.S.O. 1937, c. 62, s. 104 (1). Municipal commission to be established in every city or town under contract with Commission. Rev. Stat., c. 320.

(2) Notwithstanding anything in *An Act respecting the City of Toronto*, being chapter 119 of the Statutes of Ontario, 1911, in a city having a population of 60,000 or over according to the last enumeration of the assessor, the corporation of which has entered into a contract with the Commission under this Act, the commission to be established for the control and management of the construction, operation and maintenance of all works undertaken by the corporation for the distribution and supply of electrical power or energy shall consist of three members, one of whom shall be the mayor of the city, one of whom shall be appointed by the municipal council of the city for two years and until his successor is appointed, and the third of whom shall be appointed by the Commission for two years and shall be eligible for re-appointment. 1946, c. 73, s. 16 (1). Municipal commission, how composed in city of 60,000 or over.

121. Where, by this Act or by any contract heretofore or hereafter entered into between the Commission and a municipal corporation, duties are imposed upon or covenants or undertakings are entered into by the municipal corporation, they shall extend to and be deemed to include and shall be binding upon any commission having the management or control of any public utility or other municipal undertaking for and on behalf of the municipal corporation, and any board of education, board of high school trustees or board of public school trustees appointed or elected for the municipality represented by the municipal corporation. R.S.O. 1937, s. 62, s. 106. Agreement to extend to municipal commissions, boards, etc.

CHAPTER 282

The Power Commission Insurance Act

1. In this Act,

Interpreta-
tion.

- (a) "Commission" means The Hydro-Electric Power Commission of Ontario;
- (b) "insurance corporation" means a corporation licensed to transact the business of insurance and enter into contracts for insurance in the Province of Ontario under *The Insurance Act*;
- (c) "municipal authority" means a municipal corporation or commission distributing electrical power or energy in a municipality. R.S.O. 1937, c. 67, s. 1.

Rev. Stat.,
c. 183.

2.—(1) The Commission may enter into an agreement with any municipal authority or group of municipal authorities authorizing the Commission to contract with an insurance corporation or with His Majesty pursuant to the *Government Annuities Act* (Canada) for insurance for the employees of such municipal authority or municipal authorities by way of service annuities, income annuities or death or disability benefits or such other benefits as may by the Commission be deemed expedient and for payment by the municipal authority or authorities of the cost of such insurance and the cost of or incidental to the administration and operation of the contract, and any other expenses incurred or for which the Commission may be liable in connection therewith. R.S.O. 1937, c. 67, s. 2 (1); 1943, c. 23, s. 1 (1).

Agreement
between
Commission
and muni-
cipal
authority.
R.S.C. 1927.
c. 7.

(2) The Commission on behalf of any such municipal authority or group may, with the approval of the Lieutenant-Governor in Council, enter into an agreement with an insurance corporation or with His Majesty pursuant to the *Government Annuities Act* (Canada) for providing insurance for the employees of such municipal authority or group by way of service annuities, income annuities or death or disability benefits, or such other benefits as may by the Commission be deemed expedient, and for the enforcement of any such contract and for the administration of its operation by the Commission or by any other person or corporation on behalf of such municipal authority or group. R.S.O. 1937, c. 67, s. 2 (2); 1943, c. 23, s. 1 (2).

Agreement
with
insurance
corporation.

Power to
amend.

(3) Notwithstanding anything in subsection 1 or in any agreement made thereunder, the Commission, with the approval of the Lieutenant-Governor in Council, may enter into further agreements with any such insurance corporation or with His Majesty pursuant to the *Government Annuities Act* (Canada) varying, adding to or modifying as the Commission may deem necessary or advisable any agreement entered into under subsection 2 or this subsection and each such further agreement shall be legal, valid and binding upon each municipal authority on behalf of which it is entered into and upon the successors and assigns of such municipal authority. 1941, c. 43, s. 1; 1943, c. 23, s. 1 (3).

Cost of
insurance,
how borne.

3.—(1) The cost of insurance and the cost of and incidental to the administration and operation of the contract and any other expenses incurred or for which the Commission may be liable in connection therewith shall be payable by each of the municipal authorities on whose behalf the contract is undertaken as part of the cost of operation of the works of the municipal authority and shall be apportioned and distributed by the Commission among the municipal authorities in any such group in such manner as the Commission may deem equitable.

Regulations.

(2) The Commission, with the approval of the Lieutenant-Governor in Council, may make regulations prescribing the terms and conditions for the required payments under subsection 1, and the time and manner in which such payments shall be made and the returns and accounts to be furnished by any municipal authority and the contributions to be made by the employees of any municipal authority party to the agreement. R.S.O. 1937, c. 67, s. 3.

Agreement
between
municipal
authority
and His
Majesty.
R.S.C. 1927,
c. 7.

4. Upon the recommendation of the Commission and with the approval of the Lieutenant-Governor in Council, a municipal authority may enter into an agreement with His Majesty pursuant to the *Government Annuities Act* (Canada) for providing insurance for the employees of such municipal authority by way of service annuities, income annuities or death or disability benefits, or such other benefits as may by the Commission be deemed expedient. 1943, c. 23, s. 2.

CHAPTER 283

The Power Control Act**1. In this Act,**Interpre-
tation.

- (a) "Commission" means The Hydro-Electric Power Commission of Ontario;
- (b) "land" means real property of whatsoever nature or kind, and includes tenements, hereditaments and appurtenances, any estate, term, easement, right or interest in, to, over, under or affecting land, and water rights, water powers and water privileges;
- (c) "owner" includes mortgagee, lessee, tenant, occupant, or any person entitled to any estate or interest in land or works, and a guardian, committee, executor, administrator or trustee in whom land or works or any property or interest therein is vested;
- (d) "power" includes hydraulic, electrical, steam or other power and also includes energy;
- (e) "regulations" means regulations made under this Act;
- (f) "supply" includes delivery, dealing in, and sale;
- (g) "works" includes all property, plant, machinery, installations, materials, devices, fittings, apparatus, appliances and equipment constructed, acquired or used in the generation, transformation, transmission, distribution, supply or use of power. 1939 (2nd Sess.), c. 8, s. 1.

2. The Commission shall have authority to regulate and control the generation, transformation, transmission, distribution, supply and use of power in Ontario, and, without limiting the generality of the foregoing, the Commission may,

Powers of
Commission.

- (a) restrict or prohibit the supply or use of any power or the supply or use of power to or by any person and divert or apportion power or give priority or preference to any user of power in order to effect what is in the opinion of the Commission the most economical, efficient and equitable use and distribution of power;

- (b) direct any owner to generate or supply power at any specified rate not exceeding the full capacity of his works;
- (c) hear and decide any dispute between any owner and any user of power concerning any matter over which the Commission has jurisdiction under this Act and make such direction as it deems proper in accordance with its decision;
- (d) decide and direct to whom, at what prices and under what conditions power may be supplied; and
- (e) do such acts and give such directions as may be necessary for the carrying out or enforcement of the provisions of this Act and the regulations. 1939 (2nd Sess.), c. 8, s. 2.

Regulations. **3.** Subject to the approval of the Lieutenant-Governor in Council, the Commission may make regulations,

- (a) requiring any owner to furnish to the Commission information regarding,
 - (i) his land and works including the capacity, output, cost and use thereof,
 - (ii) his assets, liabilities, revenues, expenses and operations, and
 - (iii) the supply of power by him to other persons including particulars of quantities, prices, terms, conditions, points of delivery and use;
- (b) requiring any person to furnish to the Commission information regarding the supply of power to him, including particulars of quantities, prices, terms, conditions, points of delivery and use, and by whom supplied;
- (c) prescribing the manner of deciding and determining preferences and priorities in the supply and use of power and providing for the apportioning of power among different users or classes of users and the diversion of power from one or more users or classes of users to other users or classes thereof;
- (d) restricting or prohibiting the supply or use of power for any particular purpose;
- (e) providing for the setting of prices at which and for the fixing of terms and conditions under which power may be supplied in Ontario, either generally or for one or more users or classes of users;

- (f) providing for the entry upon and inspection of land and works including the making of inventories and valuations thereof, the examination of books, accounts, records and documents relating thereto and generally the obtaining of information in connection therewith;
- (g) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1939 (2nd Sess.), c. 8, s. 3.

4. When any owner or other person is unable to supply power under any contract or obligation because of compliance with this Act or the regulations or any direction of the Commission made thereunder, such owner or other person shall be relieved from all liability for his failure to supply power on account of such inability. 1939 (2nd Sess.), c. 8, s. 4.

5.—(1) Where the Commission is satisfied that any owner is not using his land and works, or either of them, to full capacity or best advantage for the generation or supply of power or is neglecting or refusing to comply with any direction of the Commission or the provisions of this Act or the regulations, the Commission may purchase or acquire and may, without the consent of the owner, enter upon, take and expropriate any of his lands or works which it may deem necessary for the generation, transformation, transmission, distribution or supply of power.

(2) Where lands or works are purchased, acquired, entered upon, taken or expropriated under this section the Commission, in its discretion, may acquire absolute title or a limited estate, right or interest therein either on a rental basis or otherwise as it deems desirable in the circumstances, provided that whether or not it acquires absolute title to any such land or works, the Commission may use such land and works in such manner as it deems proper and may divert water therefrom, close, repair, rehabilitate, extend, improve or reconstruct such works and may construct other works in lieu thereof or in addition thereto.

(3) The provisions of *The Power Commission Act* and *The Public Works Act* as to the purchase, acquisition, entry upon, taking and expropriation of land and the fixing, payment and application of compensation therefor shall apply *mutatis mutandis* to the purchase, acquisition, entry upon, taking and expropriation of land and works under this Act, provided that where any of the provisions of *The Power Commission Act* conflict with any of the provisions of *The Public Works Act*, the former shall prevail. 1939, (2nd Sess.), c. 8, s. 5.

Penalties.

6.—(1) Every owner or other person who violates any of the provisions of this Act or the regulations or who neglects or refuses to comply with any direction of the Commission shall be guilty of an offence and on summary conviction shall be liable, for a first offence, to a penalty of not more than \$5,000, for a second offence, to a penalty of not more than \$10,000 and for a subsequent offence, to a penalty of not more than \$25,000, and where such owner or other person is a corporation, the president, directors and the manager or other person in charge shall each be personally liable to a similar penalty.

Penalties payable to Commission.

(2) The penalties recovered for an offence against this section shall be payable to the Commission. 1939 (2nd Sess.), c. 8, s. 6.

Other powers of Commission.

7.—(1) In exercising or performing any power or duty conferred or imposed upon it by this Act or the regulations the Commission shall have and may exercise any authority, right, power, privilege or immunity which it possesses under *The Power Commission Act* or any other Act or under any other authority.

Rev. Stat., c. 281.**Idem.**

(2) The powers conferred by this Act shall be deemed to be in addition to and not in derogation of any power conferred upon the Commission by any other Act, but where the provisions of any other Act conflict with the provisions of this Act the latter shall prevail. 1939 (2nd Sess.), c. 8, s. 7.

CHAPTER 284

The Powers of Attorney Act

1. Where a power of attorney for the sale or management of real or personal estate, or for any other purpose, provides that the same may be exercised in the name and on the behalf of the heirs or devisees, executors or administrators of the person executing the same, or provides by any form of words that the same shall not be revoked by the death of the person executing the same, such provision shall be valid and effectual, subject to such conditions and restrictions, if any, as may be therein contained. R.S.O. 1937, c. 150, s. 1.

Express provision for exercise after decease of constituent.

2.—(1) Independently of such special provision in a power of attorney, every payment made and every act done under and in pursuance of a power of attorney, or a power, whether in writing or verbal, and whether expressly or impliedly given, or an agency expressly or impliedly created, after the death of the person who gave such power or created such agency, or after he has done some act to avoid the power or agency, shall, notwithstanding such death or act, be valid as respects every person who is a party to such payment or act, to whom the fact of the death, or of the doing of such act, was not known at the time of such payment or act *bona fide* made or done, and as respects all claiming under such last-mentioned person.

Validity of acts or payments *bona fide* after decease or revocation.

(2) Nothing in this section shall affect the right of any person entitled to the money against the person to whom the payment is made, and the person so entitled shall have the same remedy against the person to whom the payment is made as he would have had against the person making the payment. R.S.O. 1937, c. 150, s. 2.

Saving Imp. Act., 56-57 Vict., c. 53, s. 24, part.

CHAPTER 285

**The Prepaid Hospital and
Medical Services Act****1. In this Act,**Interpre-
tation.

- (a) "association" means any company or corporation incorporated for the purpose of establishing, maintaining and operating a hospital or medical service on a non-profit prepayment basis, whereby any one or more of hospital, medical, surgical, nursing or dental services or payment therefor may be provided to persons who become subscribers with, or members of, such company or corporation, or for these and similar purposes, but does not include an insurer licensed under *The Insurance Act* or a pension fund or employees' mutual benefit society incorporated under Part XVI of *The Companies Act*;

Rev. Stat.,
c. 183.Rev. Stat.,
c. 59.

- (b) "Superintendent" means Superintendent of Insurance under *The Insurance Act*. 1950, c. 56, s. 1.

2. Every association registered under this Act shall be exempt from the provisions of *The Insurance Act*. 1950, c. 56, s. 2.

Registered
associations
exempt from
Rev. Stat.,
c. 183.

3. No letters patent granting a charter to an association shall be issued under *The Companies Act* without the written approval of the Superintendent. 1950, c. 56, s. 3.

Incorporation.

4. No association shall, within Ontario, contract to furnish hospital, medical, surgical, nursing or dental service, or any combination of them, on a prepayment basis or make payment therefor unless registered under this Act. 1950, c. 56, s. 4.

No association
to
carry on
business
unless
registered.

5.—(1) Every application for registration shall be made in writing to the Superintendent and shall be accompanied,

Application
for registration.

- (a) by the prescribed fee;
- (b) by a certified copy of the Act or other instrument of incorporation of the association and of its constitution, by-laws and regulations;
- (c) by a copy of every contract or proposed contract with a hospital, physician and other person for the rendering of services to subscribers or members;

- (d) by a copy of every form of contract or proposed contract with subscribers or members;
- (e) by a certified list of rates charged or to be charged to subscribers or members together with details of the benefits which the association contracts to furnish to subscribers or members;
- (f) by a copy of the balance sheet of the association and a statement of income and expenditures as of the close of its last fiscal year, certified by the president, or vice-president, and the managing director or some other principal officer of the association and reported on by its auditor;
- (g) by such other information or material as the Superintendent may require.

Registration
to be
granted by
Superin-
tendent.

(2) The Superintendent shall grant registration to an association if he is satisfied,

- (a) that the applicant is established as a *bona fide* association;
- (b) that the contracts and proposed contracts with hospitals, physicians or other persons for the rendering of service to subscribers or members and the contracts or proposed contracts with subscribers or members are fair and reasonable;
- (c) that the applicant has established and has such working capital and reserves as the Superintendent deems adequate; and
- (d) that the applicant has complied with the provisions of subsection 1. 1950, c. 56, s. 5.

Application
for renewal
of registra-
tion.

6.—(1) Every application for renewal of registration shall be made in writing to the Superintendent on or before the 21st day of March in each year and shall be accompanied by the prescribed fee and such information and material as the Superintendent may require.

Renewal of
registration.

(2) The Superintendent shall grant renewal of registration to an association if he is satisfied,

- (a) that the contracts and proposed contracts with hospitals, physicians or other persons for the rendering of service to subscribers or members and the contracts or proposed contracts with subscribers and members are fair and reasonable;
- (b) that the applicant has such working capital and reserves as the Superintendent deems adequate; and

(c) that the applicant has complied with the provisions of subsection 1. 1950, c. 56, s. 6.

7. Every registration and renewal of registration shall lapse on the 31st day of March in each year. 1950, c. 56, s. 7. Termination and renewal of registration.

8. The Superintendent may suspend or cancel any registration upon any grounds which would justify refusal to grant registration or renewal of registration or where the association fails to comply with any provision of this Act. 1950, c. 56, s. 8. Suspension and cancellation.

9. The Superintendent may at the request of any association, evidenced as he may direct, cancel its registration. 1950, c. 56, s. 9. Cancellation by request of association.

10. Notwithstanding any decision of the Superintendent, a further application for registration or renewal of registration may be made upon new or other material or where it is clear that any material circumstance has changed. 1950, c. 56, s. 10. Further application for registration.

11.—(1) Any association that deems itself aggrieved by any decision of the Superintendent may appeal therefrom to the Court of Appeal. Appeal.

(2) The appeal shall be set down for argument at the first sitting of the Court of Appeal that commences after the expiration of 30 days from the decision complained of. When to be set down.

(3) The practice and procedure upon and in relation to the appeal shall be the same as upon an appeal from a judgment of a judge of the Supreme Court in an action. Procedure

(4) The Superintendent shall certify to the Registrar of the Supreme Court, the decision appealed from, his reasons therefor, and the documents, information and material he had before him in making such decision. 1950, c. 56, s. 11. Record.

12.—(1) Every registered association shall deliver to the Superintendent within one month of the passing thereof a certified copy of any by-law passed by the board of directors. Filing of by-laws.

(2) Not later than four months after the expiration of its fiscal year, every registered association shall file with the Superintendent a balance sheet and a statement of income and expenditures for such fiscal year, certified by the president, or vice-president, and the managing director or some other principal officer of the association and reported on by its auditor, and such other financial statements as the Superintendent may require. Filing of balance sheet, etc.

Time for
filing may
be extended.

(3) On sufficient cause shown, the Superintendent may by writing extend the time for filing the statements required under subsection 2. 1950, c. 56, s. 12.

General
statement
of affairs.

13.—(1) Not later than four months after the expiration of its last fiscal year every registered association shall prepare a general statement of its affairs in a form approved by the Superintendent.

Time may
be extended
for prepara-
tion.

(2) On sufficient cause shown, the Superintendent may by writing extend the time for the preparation of a general statement of affairs under subsection 1.

Statement
to be
attested.

(3) Every such statement shall be attested by the signature of the president, or vice-president, and the managing director or some other principal officer of the association and shall be accompanied by the auditor's report.

Copies to
subscribers
on request.

(4) A copy of such statement shall be mailed or delivered without charge to any subscriber or member who requests a copy. 1950, c. 56, s. 13.

Inspection
of books,
etc.

14.—(1) The Superintendent or his duly authorized representative may at any time make or cause to be made an inspection of the books, documents and records of any registered association.

Access to
books, etc.

(2) Upon any such inspection, the Superintendent or his duly authorized representative shall be entitled to free access to all books of account, cash, securities, documents, bank accounts, vouchers, correspondence and records of every description of the association, and no person shall withhold, destroy, conceal or refuse to furnish any information or thing reasonably required by the Superintendent or his representative under this section. 1950, c. 56, s. 14.

Investments
allowed.

15. A registered association may invest its funds in any securities in which a joint stock insurance company may invest its funds under *The Companies Act*. 1950, c. 56, s. 15.

Rev. Stat.,
c. 59.

Power to
hold real
property.

16.—(1) A registered association may hold real property which, having been mortgaged or hypothecated to it, has been acquired by it for the protection of its investment, and real property conveyed to it in satisfaction of debts previously contracted in the course of its business, and may from time to time sell, mortgage, lease, exchange or otherwise dispose of such real property, but the association shall sell any such real property within seven years after it has been so acquired.

Idem.

(2) A registered association may hold to its own use and benefit such real property as is necessary for the transaction

of its business, or is acquired or held *bona fide* for building upon or improving for that purpose, and may sell, mortgage or dispose of such real property.

(3) A registered association, when authorized by its letters patent or by the Lieutenant-Governor in Council, may construct on any lands held pursuant to subsection 2, or may acquire, a building larger than is required for the transaction of its business and may lease any part of the building not so required. 1950, c. 56, s. 16.

17. The fee for registration or renewal of registration for an association shall be, where the income from subscribers or members in the previous fiscal year,

did not exceed \$15,000.....	\$ 10
exceeded \$15,000 but did not exceed \$50,000	15
exceeded \$50,000 but did not exceed \$100,000	25
exceeded \$100,000 but did not exceed \$250,000	50
exceeded \$250,000 but did not exceed \$1,000,000 ...	100
exceeded \$1,000,000	200

1950, c. 56, s. 17.

18. Every association not registered under this Act that contracts to furnish hospital or medical service on a prepayment basis or makes payment therefor shall be guilty of an offence and on summary conviction shall be liable to a penalty of \$20 for each day during which the association carries on such business. 1950, c. 56, s. 18.

CHAPTER 286

The Presqu'ile Park Act

1.—(1) The Lieutenant-Governor in Council may appoint ^{Board of commissioners.} a board of commissioners composed of five persons, which board shall be a body corporate by the name of The Presqu'ile Park Commission.

(2) The commissioners shall hold office during pleasure of ^{Tenure of office.} the Lieutenant-Governor in Council.

(3) The commissioners shall receive such compensation as ^{Compensation} is fixed by order of the Lieutenant-Governor in Council.

(4) The commissioners, at the first meeting of the Com- ^{Chairman.} mission in each year, shall elect one of their members as chairman, who, for the purposes of this Act, shall possess all the rights and powers and shall perform all the duties that pertain to the office of reeve of a village.

(5) The commissioners, at the first meeting of the Com- ^{Secretary.} mission in each year, shall appoint a secretary, who, for the purposes of this Act, shall possess all the rights and powers and shall perform all duties that pertain to the offices of clerk and treasurer of a village.

(6) The chairman and secretary shall respectively possess ^{Further rights and powers of chairman and secretary.} such other rights and powers and perform such other duties as are consistent with the purposes and provisions of this Act and as from time to time may be prescribed by the Commission. R.S.O. 1937, c. 97, s. 1.

2.—(1) The tract of land and marsh land hereinafter mentioned, that is to say: ^{What lands to be set apart for purposes of Park.}

All that parcel or tract of land and marsh land in the Township of Brighton, in the County of Northumberland being composed of Presqu'ile Peninsula and High Bluff Island as shown on plans of survey by A. B. Perry, dated December 6th, 1869, on record in the Department of Lands and Forests, together with any small islands or bars and all marsh land lying adjacent to the said peninsula and south of the Village of Brighton and of Lots 4 and 5 in the broken front concession of Brighton Township, excepting from the above-mentioned lands, the lighthouse reserve, containing some 125 acres, and two other small lots on the northerly shore of the Point, containing together one acre and sixty-five one hundredths of an acre, more or less, and a strip 30 feet wide adjoining the westerly boundary produced of the said lighthouse reserve to give connection with the public road, as described in the Report of the Committee of the Privy Council and approved November 6th, 1920, and shown on a plan attached to the said report, containing an area of 875 acres, more or less,

is hereby vested in the Commission and set apart as a park, forest reservation and health resort for the benefit, advantage and enjoyment of the people of Ontario and shall be known as Presqu'ile Park. R.S.O. 1937, c. 97, s. 2; 1946, c. 74, s. 1.

Enlarging
the Park.

(2) The Lieutenant-Governor in Council may add to the Park any adjacent tract of land which is the property of the Crown. R.S.O. 1937, c. 97, s. 29.

Commission
to inquire
into present
leases and
contracts.

3. It shall be the duty of the Commission, and it shall have power, to inquire into and ascertain the facts concerning all leases, and all other contracts or agreements, to or with persons, in reference to any of the lands in the Park, the names of the persons holding the same, the amounts of rents reserved or other payments provided for in the same, the terms and conditions under which such agreements or leases are made, and also other particulars in connection with the same. R.S.O. 1937, c. 97, s. 3.

Collection
of revenues
from and
sale of
properties.

4. With respect to property now or hereafter vested in the Commission or which it may manage or control, it may demand, collect and recover from any person having the occupation or use thereof any money due for rent or otherwise and with the approval of the Department of Municipal Affairs may dispose of any such property by sale, lease or otherwise, provided that the Commission may, without such approval, dispose of any interest in property purchased by the Commission at a tax sale, by sale, lease or otherwise. 1949, c. 74, s. 1.

Powers of
Commission.

5. Subject to the approval of the Department of Municipal Affairs, the Commission shall have power,

- (a) to lease, purchase, or otherwise acquire, and to construct and operate boats, vessels, motor cars and other means of transportation, to be used in connection with the Park;
- (b) to pull down all houses or other erections, or buildings on said lands, or such of them, or such part of them, as the Commission may think proper to be pulled down, and to sell or otherwise dispose of, or make use of, the material of the houses and other erections and buildings thus taken down and removed or otherwise disposed of or made use of;
- (c) to erect wharves, houses and other erections, buildings and structures, on said lands, and to lease or sublet the same and all other wharves, houses, and other erections, buildings and structures, with their appurtenances, which are now or hereafter may be upon said lands, to applicants therefor;

- (d) to lay out, build, improve, develop and enclose the Park in such manner as it thinks fit;
- (e) to demand, collect, and receive tolls, rents, taxes, or other charges or money for the use of the lands, buildings, erections, structures, appliances, vessels, means of transportation, or works made, built or used in or in connection with the operation of the Park, as well as for services rendered or to be rendered for the convenience or accommodation of visitors, and to expend so much of the money received therefrom as may in the opinion of the Commission be necessary or expedient in beautifying or otherwise improving the same as a park and place of public resort, and for all other purposes authorized by this Act, and, whenever required by an order of the Lieutenant-Governor in Council so to do, to remit to the Treasurer of Ontario any surplus remaining in the hands of the Commission. R.S.O. 1937, c. 97, s. 5; 1946, 74, s. 2; 1949, c. 74, s. 2, par. 1.

6. The Commission may appoint one or more constables, Constables. who shall have the same powers and perform the same duties in the Park as the constables appointed by the council of a village. R.S.O. 1937, c. 97, s. 6.

7.—(1) The Commission shall have all the powers conferred and shall be subject to all the limitations imposed by Powers of Commission. *The Municipal Act* on the council of a town, together with all the powers conferred by *The Public Schools Act* upon a rural school board. R.S.O. 1937, c. 97, s. 7 (1). Rev. Stat., cc. 243, 316.

(2) The Commission may pass by-laws for fixing the sums By-laws. to be paid for licences required under the by-laws passed under subsection 1. R.S.O. 1937, c. 97, s. 7 (2); 1949, c. 74, s. 2, par. 2.

(3) After the passing of any such by-law no general by-law of the Township of Brighton for any of the purposes Effect of by-laws of Commission. provided by such by-law shall apply. R.S.O. 1937, c. 97, s. 7 (3).

8. The Commission may also pass by-laws for protection Protection from fire. from fire, and for providing such fire appliances as it may deem necessary for the protection of life and property within the limits of the Park. R.S.O. 1937, c. 97, s. 8; 1949, c. 74, s. 2, par. 3.

9. The Commission may also pass by-laws for letting Sidewalks, roads, culverts, drains, etc. contracts, or employing labour, or purchasing material for making roads, buildings, sidewalks and culverts, putting in

drains, planting trees, and otherwise improving and beautifying the Park as a park and place of public resort, and doing all things necessary for such purposes, and the Commission may pass by-laws for entering into, and may enter into, contracts for the supply of water, light or heat by any person or company to the Park or the residents therein, and doing all things necessary for such purposes within the limits of the Park. R.S.O. 1937, c. 97, s. 9; 1949, c. 74, s. 2, par. 4.

Other
by-laws.

10. The Commission may also pass such by-laws for the proper government of the Park as may be approved by the Department of Municipal Affairs, and, subject to such by-laws, the Park shall be open to the public. R.S.O. 1937, c. 97, s. 10; 1949, c. 74, s. 2, par. 5.

Application
of Rev. Stat.,
c. 320.

11. The provisions of *The Public Utilities Act*, except where inconsistent with the provisions of this Act, shall apply to the Commission. R.S.O. 1937, c. 97, s. 11.

Authentica-
tion of
by-laws.

12. By-laws passed by the Commission shall be authenticated by the signature of the chairman and secretary and the seal of the corporation, and a copy of any such by-law so authenticated shall have the same force and effect as a copy of a municipal by-law duly certified in the manner provided by *The Municipal Act*. R.S.O. 1937, c. 97, s. 12.

Rev. Stat.,
c. 243.

Penalty for
violation
of by-law.

13. The Commission may in any by-law provide that any one contravening the by-laws shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100 or to imprisonment for a term of not more than 60 days, and such penalty may be enforced by any justice of the peace having jurisdiction within the United Counties of Northumberland and Durham. R.S.O. 1937, c. 97, s. 13.

Application
of licence
fees and
penalties.

14. All sums collected for licence fees or for penalties for offences against any by-law passed by the Commission shall be paid over to the Commission. R.S.O. 1937, c. 97, s. 14.

Repair and
maintenance
of highways.

15.—(1) It shall be the duty of the Commission to keep the highways in the Park in proper repair. R.S.O. 1937, c. 97, s. 15.

Liability for
non-repair
of highway.

(2) No action shall be maintainable against the corporation of the United Counties of Northumberland and Durham or the corporation of the Township of Brighton by reason of the non-repair of the highways, streets, sidewalks or bridges in the Park, or by reason of any misfeasance or nonfeasance in relation to them. R.S.O. 1937, c. 97, s. 24.

16.—(1) The Commission may raise by loan the sum of ^{Power to borrow to amount of \$50,000.} \$50,000 for the purpose of acquiring or expropriating lands and for constructing, building, leasing, purchasing, improving, extending, holding, maintaining, managing and conducting waterworks and all buildings, material, machinery and appurtenances thereto belonging, and other permanent works for a waterworks system of the Commission, and for enlarging and improving the Park, and for all other purposes and objects intended to be secured by this Act.

(2) For the purposes of this section the Commission may pass by-laws for contracting debts for any of such purposes by borrowing money, and for issuing debentures therefor, and it shall not be necessary to levy any special rate therefor. ^{By-law for borrowing.}

(3) The whole debt and the debentures to be issued therefor shall be made payable in 30 years at furthest from the time or times when the debentures are issued. ^{Term of debt.}

(4) The amount falling due for principal and interest in each year on account of such debentures shall be payable out of the general revenues of the Commission. ^{Provision for payment.}

(5) The holder of every debenture or other obligation issued under the authority of this Act shall have a preferential charge or lien on the revenues of the Commission, and the Commission shall pay such debts in priority to all other debts. ^{Security of debenture holders.}

(6) The Lieutenant-Governor in Council may authorize the Treasurer of Ontario to guarantee the payment, on behalf of Ontario, of the debentures issued or to be issued by the Commission under this section. ^{Guarantee by Ontario.}

(7) The form of guarantee and the manner of its execution shall be determined by the Lieutenant-Governor in Council. ^{Form of guarantee.}
R.S.O. 1937, c. 97, s. 16.

17. No by-law and no tariff of tolls, rents or charges or payment to the Commission for the use of works, vessels, or of ^{Approval of by-laws, etc.} services, shall be acted upon or effective until approved of by the Department of Municipal Affairs. R.S.O. 1937, c. 97, s. 17; 1949, c. 74, s. 2, par. 6.

18. The Commission may provide for the assessment of all lands situate within the Park, and, as to said assessment, and for the collection of all moneys due from the owners or occupants of such land, shall perform and possess all the duties and powers provided for by *The Assessment Act* and *The Voters' Lists Act* in the case of clerks, assessors and collectors in townships, and may expend money so collected for the purposes hereinbefore set forth, and for such other ^{Assessment and taxation.}
^{Rev. Stat., co. 24, 414.}

purposes as may from time to time be approved by the Department of Municipal Affairs. R.S.O. 1937, c. 97, s. 18; 1949, c. 74, s. 2, par. 7.

Employment
of officers,
workmen,
etc.

19. The Commission shall have power to employ such officers, workmen and other persons as may be deemed necessary for the purposes of this Act, and the salaries, wages or other compensation of such officers, workmen and other persons shall be payable out of the funds of the Commission. R.S.O. 1937, c. 97, s. 19.

Books and
accounts.

20.—(1) The Commission shall cause books to be provided and true and accurate accounts to be entered therein of all sums of money received and paid out and of the several purposes for which the same were received and paid out, and such books shall be at all times open to the inspection of the Treasurer of Ontario, and of any person appointed by him or by the Department of Municipal Affairs, or by a majority of the ratepayers in the Park, for such purposes, and any such person may take copies or extracts from such books. R.S.O. 1937, c. 97, s. 20 (1); 1949, c. 74, s. 2, par. 8.

Audit.

(2) The books and records of the Commission shall be examined annually by the provincial Auditor or such other auditor as may be designated by the Lieutenant-Governor in Council. R.S.O. 1937, c. 97, s. 20 (2), *amended*.

Annual
report.

21. On or before the 1st day of December in each year the Commission shall report to the Department of Municipal Affairs the receipts and expenditures of the year and such other matters as may appear to it to be of public interest in relation to the government of the Park, or to anything arising out of this Act, and shall in all cases supply to the Department of Municipal Affairs such information relating thereto as it may direct. R.S.O. 1937, c. 97, s. 21; 1949, c. 74, s. 2, par. 9.

Actions
against
commis-
sioners.

22. Without the authority of the Lieutenant-Governor in Council no action shall be brought against the commissioners personally for anything done or omitted to be done under this Act. R.S.O. 1937, c. 97, s. 22.

Separation
from Town-
ship of
Brighton
and United
Counties.

23.—(1) For municipal and school purposes the Park shall be deemed to be separated from and shall not form part of the Township of Brighton or of the United Counties of Northumberland and Durham and shall cease to be subject to the jurisdiction thereof except for judicial purposes. R.S.O. 1937, c. 97, s. 23.

(2) For all judicial purposes the Park shall be and remain a portion of the United Counties of Northumberland and Durham. R.S.O. 1937, c. 97, s. 26. ^{Judicial purposes.}

24. For the purposes of election to the Legislative Assembly the Park shall be and remain a portion of the Township of Brighton, and all persons in the Park possessing the necessary qualifications shall be entitled to be placed on the voters' lists of that township and for such purposes the Commission shall, annually, before the 15th day of July, prepare and furnish to the clerk of that township a list of persons so qualified and, for the information of the clerk of that township, shall furnish all particulars required in preparing the lists under *The Voters' Lists Act*. R.S.O. 1937, c. 97, s. 25. ^{Elections to Assembly, voters' lists. Rev. Stat., c. 414.}

25.—(1) The commissioners may acquire or expropriate lands, owned by owners as defined by section 344 of *The Municipal Act*, and situate within the Park. ^{Application of Rev. Stat., c. 243.}

(2) For the purpose of acquiring or expropriating such lands the provisions of *The Municipal Act* with respect to the acquisition of land and compensation shall apply. ^{Idem.}

(3) Until such lands shall have been so acquired or expropriated, the powers conferred by clauses *b* and *c* of section 5 shall not be exercised as to lands so owned. R.S.O. 1937, c. 97, s. 28. ^{Application of s. 5, cls. *b* and *c*.}

CHAPTER 287

The Private Detectives Act

1. No person shall engage in the business of a private detective, industrial service agency or an investigator, for hire or reward, or advertise or indicate in any letter, document or paper that he is engaged in any such business without having first obtained from the Attorney-General a licence so to do as hereinafter provided. R.S.O. 1937, c. 245, s. 1. ^{Licence required.}
2. No person shall engage in the business of furnishing or supplying for hire or reward, information as to the personal character of any person or as to the character or kind of business or occupation of any person or own or conduct or maintain a bureau or agency for any of the above-mentioned purposes without first having obtained from the Attorney-General as hereinafter provided a licence so to do for each bureau or agency and for each sub-agency, office and branch office owned, conducted or maintained by such person for the conduct of such business. R.S.O. 1937, c. 245, s. 2. ^{Licence to information bureau or agency.}
3. Nothing in section 1 or 2 shall apply to or affect any person carrying on a business or agency for the purpose of supplying information to subscribers as to the financial rating of persons or firms. R.S.O. 1937, c. 245, s. 3. ^{Exception as to mercantile agencies.}
4. Any person desiring the licence mentioned in sections 1 and 2 shall apply in writing (Form 1) to the Attorney-General and shall enter into a bond, approved by the Attorney-General, with two sufficient sureties or executed by a guarantee company, in the sum of \$3,000 for the faithful, honest and lawful conduct of such business by such applicant. R.S.O. 1937, c. 245, s. 4. ^{Application. Security.}
5. The Attorney-General, upon such application and upon such further inquiry and investigation as he may deem proper of the character and competency of the applicant and upon approving the bond mentioned in section 4 and upon receiving from the applicant the fee of \$300, may issue and deliver to the applicant a licence (Form 2) to conduct such business for the term of one year from the date thereof, and such licence may be renewed annually on a further payment of \$300 per annum, but shall be revocable at any time by the Attorney-General for cause. R.S.O. 1937, c. 245, s. 5. ^{Issue of licence.}

Licence to be posted up in office.

6. Immediately upon the receipt of the licence the licensee named therein shall cause the licence to be posted up and at all times displayed in a conspicuous place in the bureau, agency, sub-agency, office or branch for which it is issued. R.S.O. 1937, c. 245, s. 6.

Notice of removal of office, etc.

7. In case of removal of the bureau, agency, sub-agency, office or branch of a licensee to a place other than that described in the licence, he shall, within 24 hours immediately following such removal, give written notice of such removal to the Attorney-General, which notice shall describe the premises to which removal is made. R.S.O. 1937, c. 245, s. 7.

Saving as to employees of detectives.

8. A licence shall not be required by an employee of a duly licensed private detective but every licensed private detective shall be responsible for the conduct of his employees. R.S.O. 1937, c. 245, s. 9.

Records as to employees of licensee.

9. Every licensee shall keep a record of all operatives employed by him which record shall be open for inspection at all times by the Commissioner of Police for Ontario. R.S.O. 1937, c. 245, s. 10.

Provincial or county constables not to act as detectives.

10. A person while holding the position of a provincial or county constable shall not do any of the things for which a licence is required by sections 1 and 2. R.S.O. 1937, c. 245, s. 11.

Saving as to legal profession.

11. This Act shall not apply to barristers, solicitors or their employees in the regular practice of their profession. R.S.O. 1937, c. 245, s. 12.

Information acquired to be confidential.

12. A person who is or has been a licensee under this Act or the employee of a licensee shall not divulge to anyone other than his employer or as his employer may direct, except as he may be required by law, any information acquired by him during such employment in respect of any of the work to which he has been assigned by his employer. R.S.O. 1937, c. 245, s. 13.

Licenses not to be collectors.

13. A licensee under this Act shall not act as a collector of accounts, or undertake, or hold himself, or advertise as undertaking to collect accounts for any person either with or without remuneration. R.S.O. 1937, c. 245, s. 14.

Penalty.

14. Any person who contravenes any provision of this Act shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$200 and not more than \$500. R.S.O. 1937, c. 245, s. 15.

FORM 1

(Section 4)

FORM OF APPLICATION FOR LICENCE

THE PRIVATE DETECTIVES ACT

I, of the
of in the County of
apply for a licence under the said Act to engage in the business of a private
detective and furnishing information as provided in the said Act. I propose
to carry on business at the City of in premises
known as No. Street.

I am of the full age of years. My present occupation
is My former
occupations were The following
persons and no others are associated with me in the proposed detective
business:

For reference I submit the names of three parties as follows:

Dated the day of, 19....

To the Honourable
The Attorney-General for Ontario

R.S.O. 1937, c. 245, Form 1.

FORM 2

(Section 5)

THE PRIVATE DETECTIVES ACT

Pursuant to the provisions of this Act, I hereby grant permission to
..... of the of in the County of
to carry on the business of a private detective and fur-
nishing information under the provisions of the said Act.

This licence is to be in force for one year from this date.

Dated this day of, 19....

Attorney-General for Ontario

R.S.O. 1937, c. 245, Form 2.

CHAPTER 288

The Private Forest Reserves Act**1.** In this Act,**Interpre-
tation.**

- (a) "Minister" means Minister of Lands and Forests;
- (b) "owner" means any person having any right, title, interest or equity in any land;
- (c) "private forest reserve" means land declared to be a private forest reserve under this Act. R.S.O. 1937, c. 324, s. 1.

2. The Lieutenant-Governor in Council may, on the recommendation of the Minister and with the consent of the owner of any land covered with forest or suitable for forestation or reforestation, declare such land to be a private forest reserve. R.S.O. 1937, c. 324, s. 2.

**Declaring
forest land
private
forest
reserve.**

3. The declaration shall be registered by the owner in the proper registry office for the division in which the land is situated. R.S.O. 1937, c. 324, s. 3.

**Registra-
tion of
declaration.**

4. The effect of the declaration when registered shall be to constitute the land in perpetuity a private forest reserve. R.S.O. 1937, c. 324, s. 4.

**Effect of
declaration.**

5. The title and ownership of every private forest reserve shall, notwithstanding the declaration, remain in the owner so consenting, save that such owner and his personal representatives and successors in title shall be precluded in perpetuity from cutting or removing any trees upon such private forest reserve except upon the consent of the Minister, provided such owner may at any time remove dead or fallen wood or trees. R.S.O. 1937, c. 324, s. 5.

**Title to
remain in
owner.**

6. The Minister may, from time to time, arrange for the forestation or reforestation of any portion of a private reserve. R.S.O. 1937, c. 324, s. 6.

**Forestation
and re-
forestation.**

7. The Minister may, by regulation or otherwise, prohibit cattle from being allowed to run in the whole or any part of such private forest reserve, and may make such other regulations for the preservation of trees as may be deemed necessary. R.S.O. 1937, c. 324, s. 7.

**Prohibiting
cattle from
running
at large.**

CHAPTER 289

The Private Hospitals Act

1. In this Act,

Interpre-
tation.

- (a) "Department" means Department of Health;
 - (b) "house" includes any building, tent or other structure, whether permanent or temporary, intended for human habitation, and where there are two or more such structures in the occupation of the same person and situate on the same piece of land they shall be deemed to constitute a single house within the meaning of this Act;
 - (c) "inspector" means an officer of the Department designated as an inspector;
 - (d) "Minister" means the member of the Executive Council charged for the time being with the administration of this Act;
 - (e) "patient" means a person admitted to a private hospital for the purposes of treatment;
 - (f) "private hospital" means a house in which four or more patients are or may be admitted for treatment other than,
 - (i) a hospital under *The Public Hospitals Act*, Rev. Stat.,
c. 307.
 - (ii) a sanatorium under *The Sanatoria for Consumptives Act*, Rev. Stat.,
c. 346.
 - (iii) a hospital or other establishment or institution wholly or mainly supported by provincial aid,
 - (iv) an institution in respect of which a licence under *The Private Sanitaria Act* is in force, or Rev. Stat.,
c. 290.
 - (v) an institution for the reclamation and cure of habitual drunkards established under *The Municipal Act*, Rev. Stat.,
c. 243.
- and, without restricting the generality of the foregoing, "private hospital" includes,
- (vi) every convalescent home, rest home and private sanatorium for consumptives, and

(vii) any private refuge for the aged or infirm, home, refuge or other hospital or premises which is so designated by the Lieutenant-Governor in Council;

(g) "regulations" means regulations made under this Act;

(h) "superintendent" means the person who has for the time being the direct and actual superintendence and charge of a private hospital;

(i) "treatment" means the stay, maintenance, observation, care, nursing or treatment of a patient. R.S.O. 1937, c. 391, s. 1; 1940, c. 28, s. 22 (1); 1941, c. 44, s. 1.

Use of
term
"hospital".

2. No person shall use the term "hospital" or designate any place as a hospital without a licence under this Act or some other Act of this Legislature. 1938, c. 28, s. 2.

Regula-
tions.

3. The Lieutenant-Governor in Council, upon the recommendation of the Minister, may make such regulations with respect to private hospitals as may be deemed necessary for,

(a) their construction, establishment, licensing, alteration, equipment, maintenance and repair;

(b) their classifications, grades and standards;

(c) their inspection, control, government, management, conduct, operation and use;

(d) their superintendents, staffs, officers, servants and employees and the powers and duties thereof;

(e) the admission, treatment, conduct, discipline and discharge of patients, and for prohibiting the admission of any class of patients;

(f) the classification of patients;

(g) the records, books, accounting systems, audits, reports and returns to be made and kept;

(h) all other matters affecting private hospitals. R.S.O. 1937, c. 391, s. 2; 1941, c. 44, s. 2.

Powers of
Depart-
ment.

4. It shall be the duty of the Department and it shall have power to administer and enforce the provisions of this Act and the regulations. R.S.O. 1937, c. 391, s. 3.

Inspectors.

5. The Minister, with the approval of the Lieutenant-Governor in Council, may designate one or more officers of the Department to be inspectors for the purposes of this Act

and the regulations, and the powers and duties of such inspectors shall be as prescribed by the regulations. R.S.O. 1937, c. 391, s. 4.

6. Every private hospital shall have power to carry on its undertaking as may be authorized by any general or special Act under which it was created, established, incorporated or empowered so to do, but where the provisions of any general or special Act heretofore passed conflict with the provisions of this Act or the regulations the provisions of this Act and the regulations shall prevail. R.S.O. 1937, c. 391, s. 5.

7.—(1) No house shall be used as a private hospital except under the authority of a licence issued by the Minister under this Act.

(2) If any house is used as a private hospital in breach of this section the occupier and all persons concerned in the management of the house, or in the admission to or treatment of any patient therein, shall severally be guilty of an offence and liable to a penalty of not more than \$25 for every day during which such use is continued. R.S.O. 1937, c. 391, s. 6.

8.—(1) Every application for a licence to keep a private hospital shall be made in writing to the Minister and shall contain the following particulars:

- (a) the full name, place of abode and occupation of the applicant;
- (b) a statement of the estate or interest of the applicant in the house in respect of which the licence is desired;
- (c) a statement of the number of patients proposed to be admitted in the house and in each room or apartment of the house;
- (d) a description of the situation of the house;
- (e) a plan of the house on a scale of not less than one-eighth of an inch to the foot;
- (f) a statement of the length, breadth and height of every room and apartment in the house, including operating and subsidiary rooms;
- (g) a statement of the rooms or apartments to be used exclusively by patients, and of those to be used exclusively by the licensee or the superintendent or by persons other than patients;
- (h) a statement of the sanitary arrangements, ventilation, heating and water supply of the house;

- (i) a full description of the fire escapes of the house and the facilities provided for use in case of fire;
- (j) a statement as to the classes of patients proposed to be admitted.

Verification
and fee.

(2) Every such application shall be verified by the statutory declaration of the applicant and shall be accompanied by a fee of \$15. R.S.O. 1937, c. 391, s. 7.

Approval.

9. No licence shall be granted unless the house and its location with regard to adjoining dwelling houses are approved by an inspector as suitable for the purposes indicated in the application, and the Minister is satisfied as to the character and fitness of the applicant. R.S.O. 1937, c. 391, s. 8.

Annual fee.

10. Every licence may be renewed in accordance with the regulations and the fee for renewal of a licence shall be \$5. R.S.O. 1937, c. 391, s. 10; 1940, c. 28, s. 22 (2).

Death of one
of joint
licensees.

11. When a licence has been issued to two or more persons jointly, and during the currency thereof any of those persons dies leaving the other or others surviving, the licence shall remain in force and have the same effect as if granted to the survivor or survivors. R.S.O. 1937, c. 391, s. 11.

Transfer of
licence upon
application
of licensee.

12. On the application in writing signed by the licensee and by any person to whom he desires that his licence shall be transferred, the Minister may, by endorsement on the licence or otherwise in writing, transfer the licence to that person, and thereupon that person shall become the licensee of the private hospital with the same rights and obligations as if the licence had been granted to him. R.S.O. 1937, c. 391, s. 12.

Transfer or
revocation of
licence upon
death of
licensee.

13.—(1) If the licensee or the sole surviving licensee dies the Minister may, by endorsement on the licence or otherwise in writing, transfer the licence to any person nominated by the executors or administrators of the deceased licensee, and that person shall thereupon become the licensee of the private hospital with the same rights and obligations as if the licence had been granted to him.

Continu-
ation of
licence until
revoked.

(2) During the currency of a licence and any renewal thereof and until the licence is revoked under this Act the private hospital shall continue to be a licensed hospital, and the superintendent and other officers shall be deemed for the purposes of this Act to continue in office in the same manner as if the licensee were still living.

(3) If the licence is not transferred under the authority of this section within two months after the death of the licensee or of the sole surviving licensee the Minister may by writing under his hand revoke the licence, and notice of the revocation shall be published in *The Ontario Gazette*. R.S.O. 1937, c. 391, s. 13. Revocation under such circumstances.

14.—(1) A licence may at any time be revoked by the Minister, if, Revocation of licence.

- (a) the licensee has made default for three months in paying the annual licence fee;
- (b) the licensee or superintendent has been convicted of an offence against this Act or of any offence punishable by imprisonment; or
- (c) in the opinion of an inspector, the hospital premises are unsanitary or without proper fire protection, or the private hospital is managed or conducted in a manner which is contrary to the regulations or in such a manner that the revocation of the licence is required in the public interest. R.S.O. 1937, c. 391, s. 14 (1); 1941, c. 44, s. 3.

(2) Before a licence is revoked the Minister shall give notice to the licensee or superintendent of the ground on which it is proposed to revoke the licence, and shall afford to him an opportunity of showing cause why the licence should not be revoked. Notice to licensee.

(3) Any such notice may be given to the licensee or superintendent, either personally or by leaving it at the hospital with an officer or employee thereof or by mailing it by prepaid registered letter post addressed to the licensee or superintendent at the hospital and the revocation shall be effected by writing under the hand of the Minister, and notice of the revocation shall be published in *The Ontario Gazette*. Service of notice.

(4) The decision of the Minister as to the revocation of a licence shall be final and conclusive and shall not be questioned in any court or in any proceeding. R.S.O. 1937, c. 391, s. 14 (2-4). Decision of Minister final.

15.—(1) No structural alteration or addition to any private hospital shall be made until a plan of the proposed alteration or addition has been given to and approved by an inspector. Approval by Inspector of structural alterations.

(2) If any alteration or addition is made in breach of this section, the licensee shall be guilty of an offence and liable to a penalty of not more than \$100. R.S.O. 1937, c. 391, s. 15. Penalty.

Superintendent of licensed hospital.

16.—(1) For every private hospital there shall, if required by the regulations, at all times be a superintendent resident on the premises who may be the licensee himself, if qualified under this section, and shall be either a legally qualified medical practitioner or a registered nurse. R.S.O. 1937, c. 391, s. 16 (1); 1941, c. 44, s. 4.

Inspector's approval.

(2) No person other than a licensee shall be appointed as the superintendent until his name and qualification have been notified to an inspector and he has approved of the appointment.

Acting superintendent.

(3) During the temporary absence, illness or incapacity of the superintendent the licensee may, without notice to the inspector, appoint as acting superintendent any other person qualified in accordance with this section, and every person so appointed shall, while he so acts, be deemed for the purposes of this Act to be the superintendent, but he shall not so act, whether under the same or successive appointments, for a longer continuous period than four weeks.

Penalty.

(4) If at any time a private hospital is used as such while there is no duly qualified superintendent, or while the superintendent is not resident on the premises, the licensee shall be guilty of an offence and liable to a penalty of not more than \$25 for every day during which it is so used.

Exemption by Minister.

(5) The Minister may, because of special circumstances and on such terms and conditions as he thinks fit, by warrant under his hand temporarily exempt any private hospital from the requirements of subsection 1.

Withdrawal of exemption.

(6) Any exemption so granted may be withdrawn by him by notice under his hand and delivered to the licensee of the hospital. R.S.O. 1937, c. 391, s. 16 (2-6).

Register of patients.

17.—(1) In every private hospital there shall be kept a register of patients in which shall be entered the following particulars:

- (a) the name, age and usual place of abode of every patient, and date of his admission into the hospital;
- (b) the name of the medical practitioner, if any, attending each patient;
- (c) the date at which each patient leaves the hospital or, in the event of the death of a patient in the hospital, the date of his death;
- (d) such other particulars as may be prescribed by an inspector.

(2) Such particulars shall be entered in the register as soon as practicable after the occurrence of the act or event to which the entry relates. Entry of particulars.

(3) Every person who knowingly makes in the register an untrue entry shall be guilty of an offence and liable to a penalty of not more than \$200. Penalties.

(4) Every licensee who fails to make or cause to be made any entry in the register required by this Act to be made therein shall be guilty of an offence and liable to a penalty of not more than \$50. R.S.O. 1937, c. 391, s. 17. Idem.

18. Every private hospital and the registers thereof shall at all times be open to inspection by an inspector. R.S.O. 1937, c. 391, s. 18. Inspection by inspector.

19. If an inspector believes or suspects that any house is used as a private hospital without being licensed he may at any time and from time to time by himself, or by any person authorized by him, enter and inspect such house and every part thereof, and any person who prevents or obstructs or attempts to prevent or obstruct any such entry or inspection shall be guilty of an offence and liable to a penalty of not more than \$200. R.S.O. 1937, c. 391, s. 19. Power of inspector to enter unlicensed premises.

20.—(1) A private hospital shall not be used for any purpose other than the purposes in respect of which the licence is granted and purposes reasonably incidental thereto. Use of licensed hospitals.

(2) If a private hospital is used in any manner contrary to the provisions of this section the licensee and superintendent shall severally be guilty of an offence and liable to a penalty of not more than \$25 for every day during which it is so used. R.S.O. 1937, c. 391, s. 20. Penalty.

21. If at any time a private hospital is used for the treatment of a greater number of patients than is permitted by the licence, or for the admission of any patient of a class not authorized by the licence, the licensee and the superintendent shall severally be guilty of an offence and liable to a penalty of not more than \$25 for every day during which it is so used. R.S.O. 1937, c. 391, s. 21. Reception of more than authorized number of patients. Penalty.

22.—(1) The superintendent of a private hospital shall be deemed to be the occupier of the house for the purpose of giving notice under *The Public Health Act* of any patient found or suspected to be suffering from any communicable disease. Who to be deemed the occupier for certain purposes. Rev. Stat., c. 306.

(2) The superintendent of a private hospital shall be deemed to be the occupier thereof for the purpose of giving notice or Idem.

Rev. Stat.,
c. 412.

information under *The Vital Statistics Act* of the death of any person or of the birth of any child in the hospital. R.S.O. 1937, c. 391, s. 22.

Penalties.

23. Any person who contravenes any of the provisions of this Act or of any regulation where a penalty is not provided herein shall be guilty of an offence and liable to a penalty of not less than \$5 and not more than \$500, and all penalties provided for herein shall be recoverable under *The Summary Convictions Act*. R.S.O. 1937, c. 391, s. 23.

Rev. Stat.,
c. 379.

Burden
of proof in
prosecutions.

24.—(1) In any prosecution for an offence against this Act the burden of proving that any person residing in a house and there receiving medical treatment is not a patient within the meaning of this Act shall be upon the person charged.

Idem.

(2) In any prosecution for an offence against this Act the burden of proving that a licence is in force, and of proving its terms, and that any person apparently having the charge, control or management of a private hospital is not the superintendent thereof within the meaning of this Act shall be upon the person charged. R.S.O. 1937, c. 391, s. 24.

Municipal
agreements
as to
indigents.

25. With the approval of the Minister, a municipality may enter into an annual agreement with a private hospital respecting the admission and treatment of indigent persons and dependants of indigent persons in such municipality, and in such case the liability of the municipality to the private hospital shall be determined according to such agreement, and the Minister may terminate any such agreement at any time by 30 days notice in writing under his hand to the parties thereto. R.S.O. 1937, c. 391, s. 25.

CHAPTER 290

The Private Sanitaria Act

1. In this Act,

Interpreta-
tion.

- (a) "board" means board of visitors;
- (b) "drug habituate" means a person who habitually uses any poisonous or narcotic drug or other substance in such quantities or so frequently as to endanger his health or reason;
- (c) "inspector" means an inspector appointed under *The Mental Hospitals Act*; Rev. Stat.,
c. 229.
- (d) "intoxicating liquor" has the same meaning as "liquor" in *The Liquor Control Act*; Rev. Stat.,
c. 210.
- (e) "Minister" means the member of the Executive Council charged for the time being with the administration of this Act;
- (f) "proprietor" means every person or corporation to whom a licence is granted under this Act, and every person or corporation keeping, owning or having any interest or exercising any duties or powers of a proprietor in a sanitarium;
- (g) "sanitarium" means an institution for the care and treatment of mental and nervous diseases, licensed under this Act. R.S.O. 1937, c. 394, s. 1.

LICENCE, HOW OBTAINED, ETC.

2. When the proprietor of a sanitarium desires to obtain a licence for such sanitarium under this Act he shall give notice thereof to the Minister. R.S.O. 1937, c. 394, s. 2. Notice of
application
for licence.

3. The notice shall contain the full name, place of abode and occupation of the proprietor, unless the proprietor is a corporation, when the name and chief place of business of the corporation shall be given, and a true and full description of the proprietor's estate or interest in such house; and if the proprietor to whom the licence is desired to be granted does not propose to reside himself in the licensed house the notice shall contain the full name, place of abode and occupation of the superintendent who is to reside therein. R.S.O. 1937, c. 394, s. 3. Contents of
notice.

Plan of the
house, etc.

4. The notice shall be accompanied by a plan of the house, drawn upon a scale of not less than one-eighth of an inch to a foot, with a statement showing,

- (a) the situation thereof;
- (b) the length, breadth and height of, and a reference by a figure or letter to every room and apartment therein;
- (c) the quantity of land not covered by any building annexed to the house, and appropriated to the exclusive use, exercise and recreation of the patients proposed to be received therein;
- (d) the number of patients proposed to be received into such institution, and whether the licence so applied for is for the reception of male or female patients, or of both, and if for the reception of both the number of each sex proposed to be received in such institution, and the means by which the one sex may be kept separate and apart from the other;
- (e) the sanitary arrangements, ventilation, heating and water supply, and the fire escapes and the facilities provided for use in case of fire and the means for preventing fires. R.S.O. 1937, c. 394, s. 4.

Time for
sending
notice to
inspector.

5.—(1) The notice, with the plan and statements required by section 4 shall be sent to the inspector at least two weeks before the reception of patients.

Inspector
to report.

(2) The inspector shall thereupon visit the proposed sanitarium and inspect it, and report thereon to the Lieutenant-Governor in Council. R.S.O. 1937, c. 394, s. 5.

Licence to
proprietors.

6. If the inspector reports that the buildings and premises are ready and fit for occupation as a sanitarium the Lieutenant-Governor in Council may issue a licence to the proprietor to keep and maintain the same for the purposes of a sanitarium and receive therein the number of patients named in the inspector's report; and such licence shall continue in force until revoked by the Lieutenant-Governor in Council on the report of the inspector. R.S.O. 1937, c. 394, s. 6.

Conditions,
etc., of
licence.

7.—(1) Any such licence may be issued subject to such conditions, qualifications or restrictions as the Lieutenant-Governor in Council may deem advisable.

Further
restrictions
on licensees.

(2) Without limiting the generality of subsection 1, any such licence may be issued subject to restrictions respecting

the class or sex of patients who may be admitted and the type of treatment that may be given to patients. 1949, c. 75, s. 1.

8. No such licence shall be granted unless the proprietor gives security to His Majesty in the sum of \$1,000 under the usual conditions for the good behaviour of such proprietor during the time for which the licence continues in force. R.S.O. 1937, c. 394, s. 7. Security by licensee.

BOARD OF VISITORS

9.—(1) Every sanitarium shall be under the supervision and inspection of a board of visitors composed of the judge or, in the case of his absence or disqualification, a junior or deputy judge of the county or district court, the clerk of the peace and the sheriff of the county or district in which the sanitarium is situate, together with two legally qualified medical practitioners appointed by the Lieutenant-Governor in Council who shall hold office for three years unless sooner removed by him. Board of visitors.

(2) The judge shall be the chairman and the clerk of the peace shall be the secretary of the board. Chairman and secretary.

(3) The members of the board shall be paid by the proprietor such allowance for their services as the Lieutenant-Governor in Council may direct. R.S.O. 1937, c. 394, s. 8. Allowance to members.

10.—(1) No member of the board shall be pecuniarily interested in any sanitarium, either directly or indirectly, and any member who after his appointment becomes interested in any sanitarium either as proprietor or part owner, or by the sale of merchandise to such a sanitarium or in any other way, shall thereupon become disqualified from acting and shall not thereafter act in such capacity. Visitors not to have a pecuniary interest in any sanitarium.

(2) If a member of the board is or becomes so disqualified the Lieutenant-Governor in Council may appoint some one to act in his stead. R.S.O. 1937, c. 394, s. 9. Appointment in case of disqualification.

11.—(1) Every visitor shall, before acting, take and subscribe the following oath: Oath of visitors.

"I, A.B., do swear that I will discreetly, impartially and faithfully execute all the trusts and powers committed to me by virtue of *The Private Sanitaria Act*, and that I will keep secret all such matters as come to my knowledge in the execution of my office, except when required to divulge the same by legal authority, or so far as I feel myself called upon to do so for the better execution of the duty imposed upon me by the said Act".

(2) The oath shall be filed in the office of the clerk of the peace. R.S.O. 1937, c. 394, s. 10. Oath to be filed.

Meeting of
board.

12. The secretary shall summon the board to meet for the purpose of executing their duties under this Act. R.S.O. 1937, c. 394, s. 11.

Visitors'
meetings to
be private.

13. Every such summons and meeting shall be made and held as privately as possible and in such manner that no proprietor, superintendent or person interested in or employed about or connected with the sanitarium to be visited shall know of such intended visitation. R.S.O. 1937, c. 394, s. 12.

Assistant
secretary.

14.—(1) If the secretary at any time desires to employ an assistant in the execution of the duties of his office he shall certify such desire and the name of the proposed assistant to the chairman of the board, and if such assistant is approved of the chairman shall administer the following oath to such assistant:

"I, A.B., do swear that I will faithfully keep secret all such matters and things as come to my knowledge in consequence of my employment as assistant to the secretary of the Board of Visitors, appointed for the county or district of.....
by virtue of *The Private Sanitaria Act*, unless required to divulge the same by legal authority. So help me God".

At whose
cost.

(2) The secretary may thereafter, at his own cost, employ such assistant. R.S.O. 1937, c. 394, s. 13.

Restrictions
upon physi-
cians who
are visitors.

15.—(1) No medical practitioner who is a member of the board shall sign any certificate for the admission of any patient into any sanitarium or shall professionally attend upon any patient therein unless he is directed to visit such patient by the person upon whose order such patient has been received into the sanitarium, or by the Minister or by one of the judges of the Supreme Court, or by some person appointed by one of such judges for that purpose.

Penalty.

(2) For every contravention of subsection 1 the medical practitioner shall be guilty of an offence and liable to a penalty of \$200. R.S.O. 1937, c. 394, s. 14.

REMOVAL OF SUPERINTENDENT

Removal of
superin-
tendent.

16. A proprietor may remove the superintendent named in the notice, and may at any time appoint another superintendent upon giving to the board a notice containing the full name, place of abode and occupation of the new superintendent. R.S.O. 1937, c. 394, s. 15.

FEES FOR LICENCES

Fees.

17. For every licence there shall be paid to the clerk of the peace for the county or district in which the sanitarium is

located, for every patient proposed to be received therein, the sum of \$5, and if the total amount so payable does not amount to \$200 so much more as together therewith will make up the sum of \$200, and no such licence shall be delivered until the sum payable therefor has been paid. R.S.O. 1937, c. 394, s. 16.

18. All moneys received for licences granted under this Act shall be applied towards the payment of the allowance to the secretary for his services and the discharge of the costs, charges and expenses incurred by or under the authority of the board in the execution of or by virtue of this Act. R.S.O. 1937, c. 394, s. 17.

Application of fees.

19. The clerk of the peace shall keep an account of all money received and paid by him under this Act, and such accounts shall be made up to the last day of December in each year inclusively, and shall be signed by at least two of the members of the board and forwarded to the Minister. R.S.O. 1937, c. 394, s. 18.

Clerk of the peace to keep account of moneys received and expended.

ADDITIONS AND ALTERATIONS TO LICENSED PREMISES

20. No one licence shall include or extend to more than one sanitarium; but if there is any place or building detached from the sanitarium, but not separated from it by ground belonging to any other person, and if such place or building is specified, delineated and described in the prescribed notice, plan and statement in the same manner in all particulars as if the same had formed part of the sanitarium, then such detached place or building, if the Lieutenant-Governor in Council thinks fit, may be included in the licence for the sanitarium, and if so included shall be considered part of the sanitarium for the purposes of this Act. R.S.O. 1937, c. 394, s. 19.

To what premises licence may extend.

21. No addition or alteration shall be made to, in or about any sanitarium, or the appurtenances, unless previous notice in writing of the proposed addition or alteration, accompanied with a plan thereof, drawn upon the prescribed scale and accompanied by the prescribed statement, has been given to the inspector by the proprietor, nor unless the approval of the Lieutenant-Governor in Council has been previously obtained. R.S.O. 1937, c. 394, s. 20.

Alterations in sanitarium.

TRANSFERS AND REMOVALS

22. If a proprietor becomes incapable of keeping the sanitarium or dies before the expiration of the licence the Lieutenant-Governor in Council may, if he thinks fit, transfer the licence to another person who is capable of keeping the sanitarium.

When licence transferable.

ant-Governor in Council may authorize the transfer of the licence, for the term then unexpired, to the person who at the time of such incapacity or death was the superintendent of such sanitarium or had the care of the patients therein, or to such other person as the Lieutenant-Governor in Council may approve, and in the meantime the licence shall remain in force and have the same effect as if granted to the superintendent. R.S.O. 1937, c. 394, s. 21.

Survivorship.

23. If a licence has been granted to two or more persons, and one or more of such persons dies leaving the other or others surviving, the licence shall remain in force and have the same effect as if granted to the survivor or survivors. R.S.O. 1937, c. 394, s. 22.

Removal to other premises.

24.—(1) If a sanitarium is pulled down or becomes unfit for the accommodation of patients, or if the proprietor desires to transfer the patients to another building, the Lieutenant-Governor in Council may grant to him a licence to keep such other building for the reception of patients for such time as the Lieutenant-Governor in Council thinks fit; but the like notice of such intended change and the like plans and statements of and as to such intended new building shall be given as are required when application is first made for a licence for a sanitarium, and shall be accompanied by a statement in writing of the cause of the change.

Fee for licence for transfer.

(2) A fee of \$25 shall be payable by the licensee to the clerk of the peace upon the issue of the licence.

Notice of intended removal.

(3) Except where the change is occasioned by fire or tempest, seven clear days previous notice of the intended removal shall be sent by the proprietor to the person who signed the requisition for the reception of each patient or the person by whom the last payment on account of each patient had been made. R.S.O. 1937, c. 394, s. 23.

ADMISSION OF PATIENTS

Orders for admission of patient and medical certificates.

25.—(1) Subject to the provisions and exceptions hereinafter made no person, whether he is or is represented to be mentally diseased, or only a boarder or lodger in respect of whom any money is paid or agreed to be paid for board, lodging or any other accommodation, shall be received into or detained in any sanitarium without a requisition under the hand of some person according to and stating the particulars mentioned in Form 1, nor without separate certificates, according to Form 2, of two legally qualified medical practitioners not being partners or brothers, or father and son, each of whom separately from the other has personally ex-

amined the person to whom the certificates relate not more than 15 clear days previous to the reception of such person into the sanitarium, and each of whom has signed and dated the certificate on the day on which such person was so examined.

(2) Every medical practitioner who signs a certificate shall state therein that he has personally examined the person to whom the certificate relates, and that from such examination and from the evidence adduced before him, he is of opinion that such person is mentally diseased and a proper person to be confined in a sanitarium for mental diseases, and he shall also state the facts and evidence adduced before him which led to such opinion, and he shall therein distinguish the facts observed by himself from facts communicated to him by others. R.S.O. 1937, c. 394, s. 24.

Contents of
certificate.

26.—(1) The superintendent of a sanitarium may admit to and detain in it any person domiciled out of Ontario who is certified to be mentally diseased by two duly qualified medical practitioners of the place out of Ontario in which such person has his domicile, if certificates are made *mutatis mutandis* according to Form 2, but any person domiciled out of Ontario so admitted and detained in a sanitarium shall, within 15 days of such admission, be examined by one legally qualified medical practitioner of Ontario who shall certify according to Form 2.

Persons
domiciled
outside of
Ontario.

(2) The certificates shall be a sufficient authority to any person to convey the patient to the sanitarium and to the superintendent thereof to detain him therein or to the superintendent of any institution under *The Mental Hospitals Act* to which the patient may afterwards be transferred by the order of the inspector, to receive such patient in such institution and to detain him therein as long as he continues to be mentally diseased. R.S.O. 1937, c. 394, s. 25.

Effect of
medical
certificates.

Rev. Stat.,
c. 229.

27. Any person may, under special circumstances, be received into the sanitarium upon a requisition accompanied by the certificate of one legally qualified medical practitioner if the requisition states special circumstances which prevented the person from being examined by two duly qualified medical practitioners; but in every such case another certificate shall be signed by some other legally qualified medical practitioner not connected with any sanitarium, who has specially examined such person within three days after his reception into the sanitarium. R.S.O. 1937, c. 394, s. 26.

When certi-
ficate of one
physician
sufficient.

28. Subject to the provisions and exceptions hereinafter made, no person shall receive to board and lodge in any

Restric-
tions upon
unlicensed
houses.

building not licensed under this Act or take the charge or care of more than two mentally diseased persons at the same time. R.S.O. 1937, c. 394, s. 27.

Duty to
notify
inspector.

29. Every person who receives to board or lodge in a building not licensed under this Act, or takes the care or charge of a person mentally diseased, shall within one month next after receiving such person into his house or under his care notify the inspector thereof. R.S.O. 1937, c. 394, s. 28.

When physi-
cian not
to certify.

30. No medical practitioner who, or whose father, brother, son or partner, is wholly or partly the proprietor of or a regular professional attendant in a sanitarium shall sign any certificate for the reception therein of a patient, and no medical practitioner who, or whose father, brother, son or partner, signs the prescribed requisition for the reception of a patient shall sign any certificate for the reception of the same patient. R.S.O. 1937, c. 394, s. 29.

Penalty on
physician
giving false
certificate
maliciously.

31.—(1) Any medical practitioner who maliciously or corruptly signs any false certificate for the purpose of procuring the confinement of any sane person in a sanitarium shall, upon judgment being given against him in an action for damages on account of such malicious or corrupt act, *ipso facto* be incapacitated from practising in Ontario for the period of five years thereafter.

Removal
from
register.

(2) The name of such medical practitioner shall upon production of a certified copy of the judgment to the registrar of the College of Physicians and Surgeons of Ontario be removed from the register. R.S.O. 1937, c. 394, s. 30.

Admission
of voluntary
patient.

32.—(1) The superintendent of a sanitarium, upon the written application of any person who is desirous of submitting himself for treatment of any nervous or physical ailment, may receive and detain him therein upon the certificate of one legally qualified medical practitioner that such person is afflicted with any such ailment and that there is danger that such ailment will develop into mental derangement unless it is properly treated.

Discharge.

(2) No person so admitted shall be detained more than three days after he has given notice in writing to the superintendent of his desire to leave the sanitarium.

Notice of
admission
to board of
visitors.

(3) The superintendent shall give immediate notice of the reception of such person to the secretary of the board, stating all the particulars of the case, and one or more members of the board or the secretary shall forthwith visit the patient in order to verify the fact of his having been admitted voluntarily,

and all the facts in connection with the case shall be forthwith recorded in the visitors' book by the person making the inquiry. R.S.O. 1937, c. 394, s. 31.

33.—(1) Every proprietor or superintendent who receives a patient into a sanitarium shall, within two days after his reception, make an entry with respect to him in a book to be kept for that purpose, to be called "Register of Patients", according to the form and containing the particulars mentioned in Form 3, so far as he can ascertain the same, and when a patient is discharged or dies an entry of the fact shall be made in the appropriate column. Register of Patients.

(2) Every person who contravenes subsection 1 shall be guilty of an offence and liable to a penalty of not more than \$10. R.S.O. 1937, c. 394, s. 32. Penalty.

34. The form of the mental disorder, if any, of every patient received into a sanitarium shall, within seven days after his reception, be entered in the clinical record by the medical attendant, and every medical attendant who omits to make such entry, for every such omission, shall be guilty of an offence and liable to a penalty of not more than \$10. R.S.O. 1937, c. 394, s. 33. Record of mental disorder.

35. The proprietor or superintendent of every sanitarium shall, after two clear days and before the expiration of seven clear days from the day on which any patient has been received into the sanitarium, transmit to the secretary of the board a copy of the requisition and medical certificates or certificate on which the patient was received, and also a notice and statement according to Form 4. R.S.O. 1937, c. 394, s. 34. Copy of order for visitors.

PROCEDURE IN CASE OF ESCAPE

36.—(1) Where a patient has escaped from a sanitarium, the proprietor or superintendent shall, within two clear days next after the escape, transmit written notice thereof to the inspector and to the secretary of the board. Escape.

(2) The notice shall state the full name of the patient, and his then state of mind, and the circumstances connected with the escape. Contents of notice.

(3) The patient may be retaken at any time within one month after his escape and brought back to and detained in the sanitarium. Capture.

(4) If the patient is brought back, the proprietor or superintendent shall within two clear days thereafter transmit written notice thereof to the inspector and the secretary. Notice of capture.

Contents.

(5) The notice shall state when the patient was so brought back and under what circumstances, and whether with or without a fresh requisition and certificate.

Penalty.

(6) Every proprietor or superintendent who omits to transmit such notice, whether of escape or of return, for every such omission shall be guilty of an offence and liable to a penalty of not more than \$50. R.S.O. 1937, c. 394, s. 35.

REMOVAL, DISCHARGE, DEATH, ETC.

Entry of removal, discharge, etc.

37. Where a patient is removed or discharged from a sanitarium or dies therein, the proprietor or superintendent shall, within two clear days next after such removal, discharge or death, make an entry thereof in a book to be kept for that purpose, according to Form 5, and stating the particulars in Form 5, and shall also within the same period transmit written notice thereof (Form 6) and also of the cause of the removal, discharge or death, if known, to the inspector and to the secretary of the board. R.S.O. 1937, c. 394, s. 36.

Certificate required in case of death.

38.—(1) Where a patient dies in a sanitarium, a statement of the cause of death, with the name of any person present at the death, shall be forthwith drawn up and signed by the superintendent of the sanitarium, and a copy thereof duly certified by the proprietor or superintendent shall, within 48 hours after the death of the patient, be transmitted by him to the nearest coroner and to the inspector and to the secretary of the board, and also to the person who signed the requisition for the patient's admission or, if he is dead or absent from Ontario, to the person who made the last payment on account of the patient.

Penalty.

(2) Every person who contravenes subsection 1 shall be guilty of an offence and liable to a penalty of not more than \$200. R.S.O. 1937, c. 394, s. 37.

Furnishing copy of certificates and requisition.

39. Where a person discharged from a sanitarium considers himself to have been unjustly detained therein the secretary of the board shall, at his request, furnish to him or to his solicitor, without fee or reward, a copy of the certificates and requisition upon which he was admitted or detained. R.S.O. 1937, c. 394, s. 38.

MEDICAL ATTENDANTS

Staff of medical attendants.

40.—(1) In every sanitarium licensed for 100 patients or more there shall be a legally qualified resident medical practitioner as superintendent or medical attendant thereof and one legally qualified medical practitioner for each 30 patients

over the first 30 in residence, and in every such sanitarium licensed for less than 100 and more than 50 patients there shall be one legally qualified medical practitioner for each 30 patients in residence, and every sanitarium licensed for less than 50 patients, if it is not kept by or has not a resident legally qualified medical practitioner, shall be visited by one twice in every week, but the board or the inspector may direct that such last-mentioned sanitarium shall be visited by a legally qualified medical practitioner at any other time or times not oftener than once in every day.

(2) Where a sanitarium is licensed to receive less than 11 ^{When less than 11 patients.} patients any two members of the board may, by writing under their hands, permit the sanitarium to be visited by a physician at such intervals more distant than twice every week, as such visitors appoint, but not at a greater interval than once in every two weeks. R.S.O. 1937, c. 394, s. 39.

41.—(1) There shall be kept in every sanitarium a record ^{The Clinical Record.} to be called "The Clinical Record" in which the physician keeping or residing in or visiting such sanitarium shall make or cause to be made entries at least every week of the mental state and bodily condition of each patient and a correct statement of the treatment pursued.

(2) The inspector or the board may, whenever he or they see fit, by an order in writing, require the superintendent to ^{Duty to furnish copies.} transmit to him or them a correct copy of the entries or entry in the clinical record relative to the case of any patient who is or has been detained in the sanitarium.

(3) Every person who contravenes any of the provisions of ^{Penalty.} this section shall be guilty of an offence and liable to a penalty of not more than \$40. R.S.O. 1937, c. 394, s. 40.

42. There shall also be kept and observed such forms and ^{Forms and regulations.} regulations as the inspector shall from time to time direct for the further purpose of recording clinical particulars regarding patients' mental and physical condition and reporting particulars regarding the estates of patients. R.S.O. 1937, c. 394, s. 41.

INSPECTION OF SANITARIA

43. Every sanitarium shall be visited and inspected, ^{Inspection and visitation.}

- (a) by at least two of the members of the board, one of whom shall be a legally qualified medical practitioner, at least four times in every year; and
- (b) at least once in every year by the inspector who shall prepare and forward a full report of his visit of inspection to the Minister. R.S.O. 1937, c. 394, s. 42.

Duties of
visitors and
inspector
in making
visits.

44.—(1) The visitors and inspector, when visiting any sanitarium, shall inspect every part of it and every house, out-house, place and building communicating with it or detached from it, but not separated by ground belonging to another person, and every part of the ground and appurtenances held, used or occupied therewith, and shall see every patient then detained therein, and shall inquire whether any patient is under restraint and why, and shall inspect the order and certificates or certificate for the reception and detention of every patient who has been received into the sanitarium since the last visit, and shall enter in the visitors' book a minute as to,

- (a) the then condition of the sanitarium, its furniture, furnishings and surroundings;
- (b) the appearance of the patients, particularly noting if there are any marks of violence;
- (c) the condition of the beds and bedding;
- (d) whether the dietary is suitable and the food service satisfactory;
- (e) whether the staff is sufficient;
- (f) the number of patients under restraint or in seclusion with the reasons stated therefor;
- (g) any irregularity in the order or certificate;
- (h) whether the previous suggestions, if any, of the inspector or visitors have been attended to; and
- (i) any matter as to which they or he deem it proper to make observations.

Duties of
proprietor
or superin-
tendent.

(2) The proprietor or superintendent shall show to the visitors or inspector every part of the sanitarium and every person detained therein as a patient.

Inquiries
to be made
by the
visitors.

(3) The visitors and inspector shall inquire,

- (a) whether divine service is held therein, for what number of patients, and the effect thereof;
- (b) what occupations or amusements are provided for the patients, and the result thereof;
- (c) whether there has been adopted any system of non-restraint, and if so the result thereof;
- (d) as to the classification of patients;
- (e) whether there is any patient who should be discharged;

- (f) whether the building, its furniture and furnishings are suitable;
 - (g) whether the nurses engaged in caring for the patients are properly trained for the work in which they are engaged, and how many trained graduate nurses are employed; and
 - (h) as to any other matter as to which it may be proper to inquire in order to ascertain whether the sanitarium is properly conducted.
- (4) Upon every visit there shall be laid before the visitors or the inspector by the proprietor or superintendent, What information to be laid before the visitors.
- (a) a list of all the patients then in the sanitarium, distinguishing males from females, and specifying such as are deemed curable;
 - (b) the books and records required to be kept by the proprietor or superintendent, and by a medical attendant;
 - (c) all requisitions and certificates relating to patients admitted since the last visit;
 - (d) the licence then in force;
 - (e) all such other requisitions, certificates, documents and papers relating to any of the patients at any time received into the sanitarium as the visitors or inspector from time to time require to be produced.
- R.S.O. 1937, c. 394, s. 43.

45. There shall be hung up in some conspicuous part of every sanitarium a copy of the plan sent to the inspector on applying for the licence, and there shall be kept in every such sanitarium a copy of this Act, bound in a book, to be called "The Visitors' Book". Plan and "Visitors' Book" to be kept. R.S.O. 1937, c. 394, s. 44.

46.—(1) The proprietor or superintendent of every sanitarium shall, within three days after every visit by the visitors, transmit to the inspector and the secretary of the board a true copy of the entries made by them in the visitors' book. Copies of certain entries.

(2) The proprietor or superintendent of every sanitarium shall, on the last day of each month, report to the inspector the name of each patient admitted during that month, and transmit copies of the certificates and papers upon which each such patient was admitted, and shall at any and all times furnish to the inspector such other reports and information relative to any patient as may be required by him. Monthly report to inspector.

Penalty for omission.

(3) Every person who contravenes any of the provisions of subsections 1 and 2 shall be guilty of an offence and liable to a penalty of not more than \$40. R.S.O. 1937, c. 394, s. 45.

Visits.

47. The inspector or any two or more members of the board may visit and inspect a sanitarium within their jurisdiction at any hour of the day or night. R.S.O. 1937, c. 394, s. 46.

Appointment of commissioner to conduct inquiry.

48. The Lieutenant-Governor in Council may appoint any person or persons a commissioner or commissioners to conduct an inquiry into the operation of this Act, the operation, management and affairs, financial or otherwise, of any sanitarium, any matter concerning the committal, treatment or detention of any person to or in any sanitarium, any charge or complaint that any person has violated or failed to observe any provision of this Act or the regulations, or has made any false statement in any return, statement, notice, certificate or other form required to be made or kept by this Act or the regulations, and any other matter relating to the administration of this Act, and such commissioner or commissioners shall have the same power to enforce the attendance of witnesses, and to compel them to give evidence and produce documents and things, as is vested in any court in civil cases. 1938, c. 29, s. 2.

DISCHARGE OF PATIENTS

Order for discharge.

49.—(1) Subject to subsection 3, where the person who signed the requisition on which a patient was received into a sanitarium, by writing under his hand, directs the patient to be removed or discharged, such patient shall forthwith be removed or discharged accordingly.

Disability of person who signed the requisition for admission.

(2) Subject to subsection 3, if the person who signed the requisition is incapable of giving an order for the discharge or removal of the patient, or if he is absent from Ontario or is dead, the husband or wife of the patient, or if there is no husband or wife, the father of the patient, or if there is no father, the mother of the patient, or if there is no mother, then any one of the nearest of kin for the time being of the patient, or the person who made the last payment on account of the patient, may, by writing under his or her hand, give such direction for the discharge or removal of the patient and thereupon the patient shall be forthwith discharged or removed accordingly.

What to be done if the physician in charge objects.

(3) No patient shall be discharged or removed if the superintendent or attending physician, by writing under his hand, certifies that in his opinion the patient is dangerous and unfit

to be at large, together with the grounds on which such opinion is founded, unless the inspector after such certificate has been produced to him, gives his consent in writing to the discharge or removal of the patient. R.S.O. 1937, c. 394, s. 47.

50. Nothing herein shall prevent a patient from being transferred from one sanitarium to another or to an institution under *The Mental Hospitals Act*, but in such case the patient shall, for the purpose of such removal, be placed under the control of an attendant belonging to the sanitarium to or from which he is about to be removed, and shall remain under such control until the removal has been effected. R.S.O. 1937, c. 394, s. 48.

Transfer to another sanitarium or other institution. Rev. Stat., c. 229.

51.—(1) The inspector or any two or more members of the board, one of whom is a legally qualified medical practitioner, may make special visits to any patient on such days and at such hours as they think fit; and if after two distinct and separate visits made by the same visitors or inspector it appears that the patient is detained without sufficient cause such visitors or the inspector may order his discharge and the patient shall be discharged accordingly.

Discharge of patients by order of inspector or visitors.

(2) Every such order shall be signed by such visitors or inspector, and the discharge of a patient shall not be ordered until after a conference with the superintendent or an attending medical practitioner respecting the fitness of the patient to be discharged.

Prerequisite.

(3) If the visitors or inspector, after such conference, discharge a patient, and the superintendent or medical practitioner has furnished them with a statement in writing containing his reasons against the discharge, they or he shall forthwith transmit such statement to the secretary of the board, who shall enter and register it in a book to be kept for that purpose.

Objections of physician in charge to be recorded.

(4) Not less than seven days shall intervene between the first and second of such special visits, and the board or inspector shall, seven days before the second of such visits, give notice thereof, either by post or by an entry in the visitors' book, to the proprietor or superintendent of the sanitarium, and the proprietor or superintendent shall forthwith if possible transmit by registered post a copy of the notice to the person by whose authority the patient was admitted or by whom the last payment on account of such patient was made.

Time between visits; notice of visits.

(5) None of the powers of discharge shall extend to a patient confined under an order or the authority of the Lieutenant-Governor or under the order of any court of criminal jurisdiction. R.S.O. 1937, c. 394, s. 49.

What patients the visitors cannot discharge.

ORDER FOR INFORMATION

Information
respecting
individuals
detained in
sanitarium.

52. If a person applies to a member of the board or to the inspector to be informed whether any particular person is detained in a sanitarium the member or inspector may give a direction so to do to the secretary of the board who shall on the receipt of such direction make search amongst the returns made to him in pursuance of this Act, whether the person inquired for is or, within the then last 12 months, has been detained in any sanitarium under the jurisdiction of the board; and if it appears that such person is or has been so detained the secretary shall deliver to the person applying a statement in writing specifying,

- (a) the name and location of the sanitarium in which the person appears to be or to have been detained;
- (b) the name of the proprietor or superintendent thereof;
- (c) the date of admission of such person; and
- (d) in case of his having been removed or discharged, the date of his removal or discharge. R.S.O. 1937, c. 394, s. 50.

ORDERS FOR ADMISSION

Visits
of relatives
or friends.

53.—(1) Any member of the board or the inspector may, at any time, give an order in writing under his hand for the admission to any patient detained in a sanitarium of any relation or friend of such patient or of any person whom any relation or friend of the patient desires to be admitted to him.

Extent.

(2) The order may be either for a single admission or for an admission for any limited number of times or for admission generally at all reasonable times.

Penalty for
refusing ad-
mission.

(3) If the proprietor or superintendent refuses admission to or prevents or obstructs the admission to any patient of a person who produces such an order for his admission, he shall be guilty of an offence and liable to a penalty of not more than \$80. R.S.O. 1937, c. 394, s. 51.

MISCELLANEOUS PROVISIONS

Entrusting
patient to
custody of
his friends.

54.—(1) If the superintendent of a sanitarium considers it conducive to the recovery of any patient that he should be entrusted for a time to the care of his friends the superintendent may allow such patient to return on trial to his friends upon receiving a written undertaking by one or more of them that he or they will keep an oversight over such patient.

(2) If within six months thereafter the patient becomes dangerous or unfit to be at large, the medical superintendent, with the consent of the inspector or one of the visitors, to be endorsed on the warrant, may, by his warrant directed to any person or to any constable or peace officer or to all constables or peace officers, authorize and direct that the patient be apprehended and brought back to the sanitarium, and the warrant so endorsed shall be an authority to any one acting under it to apprehend the person named in it and to bring him back to the sanitarium. R.S.O. 1937, c. 394, s. 52.

55. The proprietor or superintendent of a sanitarium, with the consent in writing of any two of the visitors, may send or take under proper control any patient to any specified place for any definite time for the benefit of his health; but before such consent is given, the approval in writing of the person who signed the requisition for the admission of the patient, or by whom the last payment on account of the patient was made, shall, if required, be produced to such visitors. R.S.O. 1937, c. 394, s. 53.

56.—(1) The inspector or any two members of the board may, by summons under their hands and seals (Form 7), require any person to appear before him or them to testify on oath the truth touching any matters respecting which such inspector or visitors are authorized to inquire.

(2) Every person who does not appear pursuant to such summons, or does not assign some reasonable excuse for not appearing, or appears and refuses to be sworn or examined, shall be guilty of an offence and liable to a penalty of not more than \$200.

(3) The inspector or the visitors may direct the secretary of the board to pay to any person who appears pursuant to the summons all reasonable expenses of his appearance and attendance, and the same shall be deemed expenses incurred by the board in the execution of this Act and to be taken into account and paid accordingly. R.S.O. 1937, c. 394, s. 54.

57. Every person who knowingly gives, conveys or supplies to any patient detained in any sanitarium any intoxicating liquor or morphia, cocaine or other drugs without the order of the superintendent first obtained in writing shall be guilty of an offence and liable to a penalty of not more than \$50. R.S.O. 1937, c. 394, s. 55.

58. Every one who knowingly assists directly or indirectly any patient detained in a sanitarium to escape therefrom shall be guilty of an offence and liable to a penalty of not more than \$100. R.S.O. 1937, c. 394, s. 56, *amended*.

Disposition
of penalties.

59. All penalties when recovered shall be paid to the clerk of the peace for the county or district in which the offence was committed, to be by him applied and accounted for as hereinbefore directed with respect to money received for licences. R.S.O. 1937, c. 394, s. 57.

Limitation
of actions.

60. If an action is brought against any person for anything done or purporting to be done in pursuance of this Act by and on behalf of any person who has been detained in a sanitarium and has been released therefrom, the same shall be commenced within 12 months next after his release. R.S.O. 1937, c. 394, s. 58.

Leave to
prosecute.

61.—(1) No prosecution for any offence against this Act shall be brought except upon the order in writing of the board or with the consent in writing of the Attorney-General.

Applica-
tion of
Rev. Stat.,
c. 379.

(2) *The Summary Convictions Act* shall apply to every such prosecution.

Before
whom.

(3) Every such prosecution shall be heard before a magistrate or two justices of the peace. R.S.O. 1937, c. 394, s. 59.

Costs,
charges and
expenses.

62. The costs, charges and expenses incurred by or under any order of the board shall be paid by the clerk of the peace for the county, and be included by him in the account of receipts and payments hereinbefore directed to be kept by him. R.S.O. 1937, c. 394, s. 60.

ADMISSION OF ALCOHOLIC HABITUATES

Voluntary
admission
of alcoholic
habituates.

63. If the licence so permits, an alcoholic habituate may be admitted to a sanitarium upon his voluntary application in writing if it is certified by a legally qualified medical practitioner to the satisfaction of the superintendent that the applicant is an alcoholic habituate, that he is a reasonably hopeful subject for treatment with a view to his cure, and further that at the time of his admission he is capable of appreciating the fact that he is to be admitted as a voluntary patient. R.S.O. 1937, c. 394, s. 61.

Period of
detention
and terms
of admission.

64. Such alcoholic habituate may remain a patient in the sanitarium for a period of two years and no longer; and it shall be a condition of his admission that before his admission he shall sign a pledge agreeing and consenting to remain such length of time, not exceeding one year, as, in the opinion of the superintendent, is required to effect a permanent cure of his habit, and to faithfully conform to all the rules and regulations of the sanitarium while an inmate. R.S.O. 1937, c. 394, s. 62.

65. The medical superintendent shall have full authority to discharge from the sanitarium when, in his opinion, it may be advisable, any person who has been admitted to it by his own voluntary application. R.S.O. 1937, c. 394, s. 63.

Discharge of
voluntary
patients.

66. On petition verified by oath, presented to a judge of the county or district court of the county or district in which the alleged alcoholic habituate resides, by any relative, whether by blood or affinity, or, if he has no relative in Ontario, by any friend of the alleged alcoholic habituate, setting forth that the alleged habituate is a *bona fide* resident of Ontario, and is so given over to drunkenness as to render him unable to control himself, and is incapable of managing his affairs, or that by reason of such drunkenness he either squanders or mismanages his property, or places his family in danger or distress, or transacts his business prejudicially to the interest of his family or his creditors, or that he uses intoxicating liquors to such an extent as to render him dangerous to himself or others, or incurs the danger of ruining his health and shortening his life thereby, and praying that a hearing and examination of the matters and allegations set forth in the petition may be had, the judge shall direct that a copy of the petition shall forthwith be served upon the alleged alcoholic habituate, and with such copy there shall be served an appointment signed by the judge appointing a time and place for the hearing of the matters and allegations contained in the petition, and such service shall be at least eight clear days before the time fixed for the hearing. R.S.O. 1937, c. 394, s. 64.

Admission
at instance
of relatives
or friends.

67. The judge shall attend at the time and place named in the appointment and then and there proceed to inquire into the matters and allegations set forth in the petition, but he may in his discretion adjourn the inquiry from time to time. R.S.O. 1937, c. 394, s. 65.

Hearing the
petition.

68. The judge shall have the same powers as to summoning witnesses, enforcing their attendance and the production of documents as in proceedings in the county or district court, and each party may retain counsel to conduct the proceedings and to examine witnesses. R.S.O. 1937, c. 394, s. 66.

Idem.

69.—(1) If the judge upon such inquiry finds the person petitioned against to be an alcoholic habituate and so given over to drunkenness as to render him unable to control himself and incapable of managing his affairs, or that on that account he squanders or mismanages his property, or places his family in danger or distress, or transacts his business prejudicially to the interest of his family or his creditors, or that he uses intoxicating liquors to such an extent as to render him danger-

Order for
admission
and deten-
tion.

ous to himself or others, or incurs the danger of ruining his health or shortening his life, the judge may order him to be admitted to and detained in the sanitarium for a period not exceeding two years.

Arrange-
ments.

(2) Before such order is made, the judge shall ascertain that there is a vacancy in such sanitarium, and that satisfactory arrangements have been made with the medical superintendent thereof for the payment of the maintenance of the alcoholic habituate.

Execution
of order.

(3) The order for the conveyance of the alcoholic habituate to the sanitarium may be carried out by the sheriff or by any other person to whom it is directed. R.S.O. 1937, c. 394, s. 67.

Provision
in case any
person
detained
escapes.

70. If an inmate of the sanitarium, admitted or committed under section 63 or 69, escapes therefrom, any officer or servant of the sanitarium or any other person at the request of the superintendent may, within 48 hours after such escape, or within one month thereafter when a warrant has been issued by the superintendent in that behalf, retake such escaped person and return him to the sanitarium where he shall remain under the authority by virtue of which he was detained prior to such escape. R.S.O. 1937, c. 394, s. 68.

Drug
habituates.

71. All the provisions of this Act relating to alcoholic habituates shall extend *mutatis mutandis* to every person who is a drug habituate. R.S.O. 1937, c. 394, s. 69.

FORM 1

(Section 25 (1))

REQUISITION FOR THE RECEPTION OF A PATIENT

I, the undersigned, hereby request you to receive *A.B.*, a person mentally diseased, as a patient into your sanitarium.

.....Name.

[*State occupation (if any), his place of abode, degree of relationship, if any, or other circumstances of connection with the patient.*]

1. Full name of patient.
2. Sex and age.
3. Married, single or widowed.
4. Previous occupation.
5. Previous place of abode.
6. Religious persuasion, so far as known.
7. Duration of existing attack.
8. Whether first attack.
9. Age (if known) on first attack.
10. Whether subject to epilepsy.
11. Whether suicidal or dangerous to others.
12. Previous place of confinement (if any).
13. Special circumstances (if any) preventing the patient being examined, before admission, separately by two physicians.
14. Special circumstances (if any) preventing the insertion of any of the above particulars.

Dated this.....day of....., 19.....

(Signed).....Name.

To.....
Proprietor (or Superintendent) of.....

(describing sanitarium by situation and name, if any)

R.S.O. 1937, c. 394, Form 1, amended.

FORM 2

(Sections 25 (1), 26 (1))

FORM OF MEDICAL CERTIFICATE

I,.....(*state degree or qualification*), being a legally qualified medical practitioner, hereby certify that I have this day, separately from any other medical practitioner, visited and personally examined *A.B.*, the person named in the accompanying statement and requisition, and that the said *A.B.* is a person suffering from mental disease, and a proper person to be confined, and that I have formed this opinion from the following fact (*or facts*), viz.:

(Signed).....Name.

.....Place of abode.

Dated this.....day of....., 19.....

Witness }

R.S.O. 1937, c. 394, Form 2.

FORM 4

(Section 35)

NOTICE OF ADMISSION

I hereby give you notice, that *A.B.* was received into this sanitarium as a patient, on the day of, and I herewith transmit a copy of the requisition and medical certificates (*or* certificate) on which he was received.

Subjoined is a statement with respect to (*his or her*) mental and bodily condition.

(Signed).....*Name.*

Superintendent (*or* Proprietor) of.....

Dated this day of, 19.....

STATEMENT

I have this day seen and personally examined *A.B.*, the patient named in the above notice, and hereby certify that, with respect to mental state, he (*or she*)....., and that, with respect to bodily health and condition, he (*or she*).....

(Signed).....*Name.*

Medical Proprietor (*or* Superintendent,
or Attendant), of.....

Dated this day of, 19.....

R.S.O. 1937, c. 394, Form 4.

FORM 5
(Section 37)

REGISTER OF DISCHARGES AND DEATHS

Date of Death or Dis-charge.	Date of Last Admission.	No. in Register of Patients.	Name and Surname in Full.		Sex.		Discharged.			Died.	Removed.	Assigned Cause of Death.	Age at Death.	Observations.
					M.	F.	Recovered.	Relieved.	Not Improved.					

FORM 6

(Section 37)

FORM OF NOTICE OF DISCHARGE OR DEATH

I hereby give you notice that.....a patient received
into this sanitarium for mental diseases on theday of
.....was discharged therefrom, recovered (or relieved, or
not improved) (or was removed therefrom) by the authority of.....
.....(or died therein) on the day of

(Signed).....Name.

Superintendent (or Proprietor)

.....of house at.....

Dated this.....day of....., 19.....

In case of death, add—and I further certify that A.B. was present at the
death of the said....., and that the apparent cause of the
death of the said..... (ascertained by *post mortem*
examination, if so) was.....

R.S.O. 1937, c. 394, Form 6.

FORM 7

(Section 56 (1))

FORM OF SUMMONS

We, (names in full).....being two of
the visitors appointed under *The Private Sanitaria Act*, do hereby summon
and require you personally to appear before us at.....
.....in.....on.....
the.....day of....., at the hour of.....
in the.....noon of the same day, and then and there to be
examined, and to testify the truth touching certain matters relating to
the execution of the said Act.

Given under our hands and seals, this.....day of.....
in the year of our Lord, 19.....

R.S.O. 1937, c. 394, Form 7.

CHAPTER 291

The Probation Act

1. The Lieutenant-Governor in Council may appoint a probation officer and such assistants to such officer as may be deemed necessary for any county, including any city or separated town in such county, or for any district. R.S.O. 1937, c. 399, s. 1. <sup>Appoint-
ment.</sup>

2.—(1) For the purpose of giving effect to section 1081 of the *Criminal Code* (Canada) and amendments thereto, it shall be the duty of the probation officer and he shall have power with regard to any person convicted at a sittings of the Supreme Court for the trial of criminal cases or at the general sessions of the peace, or the county judges' criminal court, or at the court of any magistrate or justice of the peace or by a juvenile court in the county or district, <sup>Powers and
duties.
R.S.C. 1927,
c. 36.</sup>

- (a) to procure and report such information as to the antecedents, family history, previous convictions, character of employment and other information respecting any person so convicted as the court may require;
- (b) to supervise under the direction of the court before whom such person was convicted the employment, conduct and general condition under which the person so convicted may be placed during the period of probation imposed by the court;
- (c) to see that any person so convicted reports from time to time as the court may prescribe, and to report to the court if the person so convicted is or is not carrying out the terms on which sentence is suspended, and to see that such person, in case of such default, is brought again before the court for sentence;
- (d) to see that any person so released on suspended sentence duly makes restitution and reparation;
- (e) to see that any person so convicted while on probation duly carries out any order of the court requiring him to make due provision for the support of his wife and any other dependants for which he may be liable;
- (f) to do all such other things as may be directed by the court or by the regulations made under this Act.

To be
ex officio
provincial
constable.

(2) In the performance and exercise of the powers imposed by or under subsection 1, the probation officer and any assistant of the probation officer shall be *ex officio* a provincial police constable. R.S.O. 1937, c. 399, s. 2.

To be
officer of
court and
under judge,
etc.

3. For the purposes of this Act the probation officer and his assistants shall be deemed to be officers of every such court in the county or district for which they are appointed and shall be amenable to, and shall carry out the directions of the judge, magistrate or justice presiding in such court. R.S.O. 1937, c. 399, s. 3.

County to
provide
accommoda-
tion.

4.—(1) It shall be the duty of the council of any county for which a probation officer is appointed, to provide such office accommodation for the probation officer and his assistants as the regulations may require.

When city
to be
responsible.

(2) Where under any agreement or award or under any general or special Act it is the duty of the corporation of a city to provide accommodation for the courts and officers engaged in the administration of justice in the county, the corporation of the city shall provide such office accommodation for the probation officer and his assistants. R.S.O. 1937, c. 399, s. 4.

Expenses
of office,
how borne.

5. The salary or other remuneration of a probation officer and his assistants and the expenses of providing clerical or other assistance and any other necessary expenses of his office shall be payable out of the Consolidated Revenue Fund and all accounts and vouchers in connection with such office shall be examined and audited by the Auditor of Criminal Justice Accounts whose audit shall be final. R.S.O. 1937, c. 399, s. 5.

Regulations.

6. The Lieutenant-Governor in Council may make regulations which may be general or special in their application,

- (a) respecting the qualifications, duties and powers of probation officers and their assistants;
- (b) respecting the office and other accommodation and clerical and other assistance to be provided for a probation officer;
- (c) prescribing the reports and returns to be made by probation officers;
- (d) fixing the salary or other remuneration to be paid to a probation officer and his assistants;
- (e) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1937, c. 399, s. 6.

7.—(1) Where a person is charged with having committed an offence against any statute of Ontario the justice, magistrate or court before which such person is brought for trial may make such inquiries as he or it deems proper as to the character and reputation of the person charged and as to whether or not he has been previously convicted of any offence under the *Criminal Code* (Canada) or against a statute of Ontario, and if it appears that, regard being had to the age, character and antecedents of such person, that it is expedient that such person be released on probation of good conduct, such justice, magistrate or court may release the person charged under one or more of the following directions and conditions:

- (a) that such person enter into a recognizance with or without sureties to keep the peace, and be of good behaviour; Probation on certain conditions: R.S.C. 1927, c. 36.
 - (b) that such person be placed upon probation for such period and under such circumstances as the justice, magistrate or court before which he is brought may prescribe; probation;
 - (c) that such person shall report from time to time during such period of probation to any probation officer that the justice, magistrate or court may designate; report to probation officer;
 - (d) that such person shall be under the supervision and direction of such probation officer during the period of probation, and shall obey and carry out the instructions and directions of the probation officer; supervision and direction;
 - (e) that such person pay the costs of the prosecution or some portion of the same within such period and by such instalments as the justice, magistrate or court before which he is brought may direct; payment of costs;
 - (f) that such person make restitution and reparation to any person or persons aggrieved or injured by the offence charged, for any actual damage or loss thereby caused; restitution;
 - (g) that such person while on probation be ordered to provide for the support of his wife and any other dependant or dependants for which he is liable; support of family;
 - (h) that such person perform and carry out any other direction and condition that the justice, magistrate or court before which he is brought may prescribe and deem proper to impose. other conditions and directions.
- (2) The justice, magistrate or court before which such person is brought, before directing the release or discharge of any such person, shall be satisfied that such person or his surety has Place of abode of person charged to be in jurisdiction.

a fixed place of abode or regular occupation in the county or place for which the justice, magistrate or court acts, or in which such person is likely to live during the period named for the observance of the conditions.

Failure to
carry out
conditions.

(3) If any justice, magistrate or court having power to deal with such person in respect of the charge against him, or if any justice, magistrate or court is satisfied by information on oath that such person has failed to observe any of the conditions of his recognizance, or has failed to observe and perform any direction or condition made in reference to probation or otherwise, a new information may be issued against such person for the original offence charged, and in addition an information may also be issued against such person for a breach of any of the directions and conditions so imposed.

Penalty.

(4) Upon summary conviction of a breach of any of the directions and conditions so made, such person may in addition to any penalty that may be imposed for the original offence, be liable to a penalty of not more than \$50.

When con-
currence of
Crown
attorney
required.

(5) Where the justice, magistrate or court finds that there has been a previous conviction against the person charged, the justice, magistrate or court may exercise the powers conferred by subsection 1, subject to the approval and concurrence of the Crown attorney. R.S.O. 1937, c. 399, s. 7.

CHAPTER 292

The Professional Engineers Act**1. In this Act,**Interpreta-
tion.

- (a) "Association" means the Association of Professional Engineers of the Province of Ontario;
- (b) "board" means the board of examiners of the Association;
- (c) "council" means the council of the Association;
- (d) "graduate" means a graduate from a university recognized by the council in any branch of engineering or science the practice of which constitutes professional engineering;
- (e) "licensed" means that permission has been granted by the council to a non-resident engineer to practise temporarily without being registered, and "licence" means the official certificate under the seal of the Association evidencing such permission;
- (f) "member" means a registered member of the Association;
- (g) "president" means the president of the Association;
- (h) "professional engineer" means a person who practises professional engineering;
- (i) "professional engineering" save as hereinafter mentioned means the advising on, the reporting on, the designing of, the supervising of the construction of, all public utilities, industrial works, railways, tramways, bridges, tunnels, highways, roads, canals, harbour works, lighthouses, river improvements, wet docks, dry docks, floating docks, dredges, cranes, drainage works, irrigation works, waterworks, water purification plants, sewerage works, sewage disposal works, incinerators, hydraulic works, power transmission systems, steel, concrete and reinforced concrete structures, electric lighting systems, electric power plants, electric machinery, electric apparatus, electrical communication systems and equipment, mineral property, mining machinery, mining develop-

ment, mining operations, gas and oil developments, smelters, refineries, metallurgical machinery, and equipment and apparatus for carrying out such operations, machinery, boilers and their auxiliaries, steam engines, hydraulic turbines, pumps, internal combustion engines and other mechanical structures, chemical and metallurgical machinery, apparatus and processes, and aircraft and generally all other engineering works including the engineering works and installations relating to airports, airfields and landing strips and relating to town and community planning;

- (j) "registered" means that an engineer has been admitted to membership in the Association and that his name has been enrolled in the register, and "certificate of registration" means the official certificate under the seal of the Association evidencing the same;
- (k) "registrar" means the registrar of the Association;
- (l) "secretary" means the secretary or the secretary-treasurer of the Association;
- (m) "undergraduate" means a student enrolled at but not graduated from a university recognized by the council in a course in any branch of engineering or science the practice of which constitutes professional engineering;
- (n) "vice-president" means a vice-president of the Association. R.S.O. 1937, c. 237, s. 1; 1946, c. 75, s. 1.

Where Act
not to bar
practice of
profession.

2. Nothing in this Act shall prevent or be deemed to prevent,

- (a) any person from performing his duties in His Majesty's armed forces;
- (b) any member or licensee of the Ontario Association of Architects under *The Architects Act* or any employee of such member or licensee acting under the direction and responsibility of such member or licensee from performing professional engineering services in the course of any work undertaken or proposed to be undertaken by such member or licensee as an architect;
- (c) any person from practising his trade or calling of a stationary engineer who holds a certificate under *The Operating Engineers Act* or from so designating himself;

Rev. Stat.,
c. 21.

Rev. Stat.,
c. 265.

- (d) any person from practising his profession, trade or calling as a bacteriologist, chemist, geologist, mineralogist or physicist;
- (e) any person from advising on or reporting on any mineral property or prospect, or from advising on, reporting on, designing, or supervising the construction of any mining plant, mining machinery, mining development, mining operations, gas and oil developments, smelters, refineries, metallurgical machinery, or equipment, apparatus, or plant or anything in connection therewith for carrying out such operations, or chemical machinery, apparatus or processes;
- (f) any person from operating, executing or supervising any works as owner, contractor, superintendent, foreman, inspector or master,

or to require any such person to become registered or licensed under this Act to so perform or practise. 1946, c. 75, s. 2.

3.—(1) All persons registered as professional engineers under this Act shall constitute the “Association of Professional Engineers of the Province of Ontario” and shall be a body politic and corporate, with perpetual succession and a common seal. What shall constitute Association.

(2) The head office of the Association shall be at the City of Toronto. R.S.O. 1937, c. 237, s. 3 (1, 2). Head office.

(3) The Association may purchase, acquire or take by gift, devise, bequest or donation for the purposes of the Association and the furtherance of its objects but for no other purposes or objects and may sell, mortgage, lease or otherwise dispose of, any real or personal property. 1946, c. 75, s. 3. Power to acquire and hold property.

(4) All fees, fines and penalties receivable and recoverable under this Act shall belong to the Association. R.S.O. 1937, c. 237, s. 3 (4). Fees, fines, etc.

4.—(1) The Council may pass by-laws or amendments to existing by-laws for, By-laws.

- (a) the admission and registration of members and the recording of licensees, and of graduates, undergraduates and persons serving under articles;
- (b) prescribing a code of professional ethics;
- (c) defining “unprofessional conduct”, “gross negligence”, “incompetence” and “serious criminal offence” for the purposes of subsection 1 of section 28;

- (d) the keeping of a register of members and licensees;
- (e) the fixing of dates and places of meeting of the Association and the council;
- (f) the government and discipline of the members;
- (g) the election of the council;
- (h) the remuneration and reimbursement of members of the council;
- (i) The election or appointment of the officers of the Association;
- (j) the fixing, levying and collecting of a fee not exceeding \$25 on each application for registration as a member or for a licence to practise or for recording as a graduate, undergraduate or person serving under articles and for the fixing, levying and collecting of an annual fee not exceeding \$10 from each member or licensee;
- (k) the management of the property of the Association;
- (l) the establishment of scholarships, bursaries and prizes;
- (m) instituting and providing means for increasing the knowledge and skill of professional engineers, for advancing their status and well-being, and for maintaining a high standard of professional ethics among them;
- (n) the application of the funds of the Association for the purposes aforesaid and the furtherance of its objects; and the investment of its funds not immediately required as aforesaid, in securities authorized by law for the investment of trust funds;
- (o) generally all such other purposes as may be deemed necessary or convenient for the management of the Association and the conduct of its business. 1946, c. 75, s. 4, *part*; 1947, c. 80, s. 1.

Idem.

(2) As between members of the Association the ruling of council on the construction and interpretation of its by-laws shall be final. 1946, c. 75, s. 4, *part*.

By-law to
be sub-
mitted to
members of
Association.

5. No by-law or amendment to a by-law, passed by council on or after the 4th day of June, 1946, shall be valid or acted upon until it has been,

- (a) submitted to the members of the Association for approval by means of a letter-ballot returnable

within 30 days after the mailing thereof and unless a majority of those voting within the prescribed time have approved thereof; and

- (b) approved by the Lieutenant-Governor in Council. 1946, c. 75, s. 5.

6. For the purposes of representation upon the council and for registration, and for such purposes only as are hereinafter set out, membership of the Association shall be subdivided into the following branches: civil, mechanical and industrial, chemical and metallurgical, electrical, mining. R.S.O. 1937, c. 237, s. 6 (1); 1946, c. 75, s. 6 (1); 1949, c. 76, s. 1. Classification.

7. Additional branches may be established by the Lieutenant-Governor in Council upon the petition of not less than 100 registered members of the Association, provided such petition is approved by the council, or upon petition of 200 members of the Association if such approval is not obtained. R.S.O. 1937, c. 237, s. 7. Additional branches.

8.—(1) The council shall consist of a president, a first vice-president and a second vice-president, an immediate past-president and three councillors from each branch of the Association, all of whom shall be registered members of the Association and domiciled in Ontario. 1946, c. 75, s. 7 (1), *part.* Council.

(2) The president, who shall be elected annually by vote of members, shall hold office until his successor is elected, shall act as presiding officer at the meetings of the council and of the Association, voting only when the votes are evenly divided, and on his retirement shall hold office as councillor for the next year succeeding. R.S.O. 1937, c. 237, s. 8 (2). President.

(3) The vice-presidents shall be elected annually by vote of the members and the first vice-president shall have all the powers of the president during his absence, and the second vice-president shall have all the powers of the president during the absence of the president and the first vice-president, provided always that if the second vice-president resides in Toronto and the first does not the council may by resolution authorize the second vice-president to have all or any part of the powers of the president while the president and first vice-president are absent from Toronto. Vice-presidents, election of.

(4) Two councillors shall be elected annually from each branch of the Association by the votes of the registered members in such branch, but any member registered before the 4th day of June, 1946 in more than one branch may vote in Councillors.

only one branch according to his selection, and he may transfer his vote to any other branch in which he is registered upon the approval of the council, and one councillor from each branch of the Association shall be appointed by the Lieutenant-Governor in Council for a term not exceeding five years.

Secretary
and trea-
surer,
appointment
of.

(5) The council shall appoint a registrar and a secretary and a treasurer who shall hold office during the pleasure of the council and any two or more of such offices may be held by one person. 1946, c. 75, s. 7 (1), *part*.

Vacancies.

(6) In case of the death, resignation or incapacity of any officer or councillor the office shall be declared vacant by the council and, except in the case of a councillor appointed by the Lieutenant-Governor in Council, the council shall fill the vacancy in such manner as may be provided by the by-laws of the Association for the balance of the term, and absence from three consecutive meetings may be treated by the council as incapacity.

Idem.

(7) In the case of a vacancy in the office of a councillor appointed by the Lieutenant-Governor in Council, the Lieutenant-Governor in Council may fill the vacancy. 1946, c. 75, s. 7 (2).

Members of
council to
control regis-
tration and
licensing.

9.—(1) The members of the council representing each branch shall control, subject to the terms of this Act, the conditions for registration and for licensing in such branch, including credentials, examinations and exemptions.

Powers of
council.

(2) The council as a whole shall have the power to review the establishment of and the carrying out of the conditions for registration as administered by the representative councillors from all branches, and shall have the power to require the representatives of such branches to modify their administration in order to maintain a standard of qualification in members satisfactory to the council.

Revocation
of certifi-
cates.

(3) The revocation of certificates and the reissuing of such certificates, the questions of discipline, fines, suspensions, expulsion, finance, overlapping of practice in branches, and all matters not coming within the provisions of subsection 1 shall be dealt with by the council as a whole. R.S.O. 1937, c. 237, s. 9.

Qualifica-
tion for
membership.

10.—(1) Any applicant for membership who,

(a) is resident in Ontario;

(b) is of the full age of 21 years or over;

- (c) has passed the examinations prescribed by the council or is exempted therefrom pursuant to this Act;
- (d) has had five years or more experience in engineering work satisfactory to council; and
- (e) provides satisfactory evidence of good character,

shall be registered by the council as a member of the Association.

(2) Each applicant for membership shall submit upon the forms prescribed by the council evidence of his educational qualifications and engineering experience, a proper certificate as to his age, such information as may be required as to his residence and at least three references as to his character and engineering experience, and he may be required by council to verify the statements set out in his application by affidavit or statutory declaration. Evidence of qualifications.

(3) Each application for membership shall state the branch in which the applicant desires to be enrolled and the application shall be referred to those members of council who represent that branch for their consideration and such councillors or a majority of them shall report to the council as to whether or not they consider the engineering experience acquired by the applicant to be satisfactory. Report of councillors for branch.

(4) If the applicant is a graduate in any branch of engineering or of science, the practice of which constitutes professional engineering, from a university recognized by the council, the applicant, upon presenting evidence of the actual time during which he was under instruction in the university shall be granted the time spent under such instruction in reduction of the period of engineering experience above required, but the total exemption granted shall not exceed four years. Credit for time spent at university.

(5) In determining the examinations to be prescribed for the applicant regard shall be had to whether or not he is a graduate of a university recognized by the council and to the examinations which he has passed to obtain his degree and the council on the advice of the members of council representing the branch to which the applicant seeks admission or a majority of them may, having regard to the examinations passed by the applicant to obtain his university degree, grant exemption to him from the prescribed examinations required for registration as a member of the Association or from some of such examinations. 1946, c. 75, s. 9, *part*. Credit for examinations passed at university.

11. Any person resident in Ontario who is a duly registered member of an association of professional engineers in any Members of associations of other provinces.

province of Canada similarly constituted to this Association, may upon application made to council be admitted to membership upon satisfactory proof of residence and of membership in such association. 1946, c. 75, s. 9, *part*.

Members of
other asso-
ciations.

12. Any person resident in Ontario who is a registered member of any association or institute in other parts of the Commonwealth of Nations or in the United States of America similarly constituted to this Association and which grants reciprocal privileges, and who applies for membership in this Association, may be admitted to membership upon producing to council satisfactory proof of such residence and of membership in such association or institute. 1946, c. 75, s. 9, *part*.

GRADUATES, STUDENTS AND APPRENTICES

Recording
persons
with the
Association.

13. Persons who are engaged as apprentices or assistants to professional engineers and who contemplate writing the prescribed examinations of the Association and undergraduates and graduates who have not completed the full five years of engineering experience within the meaning of this Act and who contemplate applying for registration on the completion of such experience may be recorded with the Association but not as members of the Association until fully qualified and upon being recorded shall be subject to the control of the council and to the by-laws of the Association. 1946, c. 75, s. 9, *part*.

LICENSING

Members of
associations
of other
provinces
not resi-
dent in
Ontario.

14.—(1) Any person resident in Canada but not in Ontario who is a registered member of an association of engineers similarly constituted of any other province of Canada may upon application obtain from the registrar a licence to practise as a professional engineer in Ontario upon production of evidence of his registry in such other province.

Consulting
specialist not
resident
in Canada.

(2) Any person who is not resident in Canada, but who in the opinion of the members of council in any branch is recognized as a consulting specialist in such branch of engineering, and has had not less than 10 years of experience in the practice of his profession, or who presents evidence to satisfy such members of council that he has equal qualifications with those required for registration in such branch of the profession, may, with the approval of the members of council of such branch, be granted a licence to practise in that branch.

Person from
province
where no
association.

(3) Any professional engineer who is resident in a province of Canada in which there is no association of engineers similarly constituted to the Association may obtain a licence to practise

in a branch of engineering, subject to the approval of the members of council representing such branch.

(4) In the event of an applicant for a licence failing to obtain it promptly for any reason unrelated to his professional capacity or his own neglect he may practise as a professional engineer in Ontario for a period of not more than three months without such licence. Practise by applicant for licence.

(5) Any such licence granted under the provisions of this section shall be in the form and be limited to the period and for the work provided by subsection 4 of section 22. 1946, c. 75, s. 9, *part*. Form and conditions of licence.

15. Any person who is employed as a professional engineer by a public service corporation, public utilities or Government department, who is by reason of his employment required to practise as a professional engineer in provinces other than that of his residence, may so practise in Ontario without holding a non-resident licence or payment of fee, providing such person can on demand of the council produce credentials satisfactory to the council showing that he is a registered member of an association of engineers similarly constituted by some other province of Canada. R.S.O. 1937, c. 237, s. 18. Employee of public service corporation, etc.

MEMBERSHIP

16.—(1) Only a person who is a member of the Association or who has obtained a licence shall be entitled to take and use the title "Professional Engineer", or "Registered Professional Engineer" or any abbreviation thereof, or except as herein otherwise provided to take and use the title "Engineer" or any abbreviation thereof in such context or in such a manner as to lead to the belief that he is a professional engineer. 1946, c. 75, s. 10. Use of titles.

(2) Each member of the Association shall have a seal, the impression of which shall contain the name of the engineer and the words "Registered Professional Engineer" and "Province of Ontario", with which seal he shall stamp all official documents and plans, and the design of such seal shall be approved by the council. R.S.O. 1937, c. 237, s. 19 (2). Seal.

17. A person applying for membership who has served in an engineering capacity with the armed forces of Canada or her allies during World War II shall be granted as part of the term of employment required before registration the whole time of such service or such part thereof as the council may direct. 1946, c. 75, s. 11. Members of the forces.

PARTNERSHIP

Co-partnership.

18.—(1) In the case of two or more persons carrying on a practice as professional engineers in co-partnership, only such members who are registered or licensed under this Act shall individually assume the function of a professional engineer.

Firm or corporation not to be deemed a member.

(2) A firm or corporation of professional engineers shall not, as such, be deemed to be a member of the Association or be licensed to practise. R.S.O. 1937, c. 237, s. 22.

EXAMINATIONS

Board of examiners.

19. The council shall appoint annually a board of examiners from nominations made by members of council representing each of the branches. 1946, c. 75, s. 12.

Examinations.

20.—(1) Examinations of candidates for registration or for licence shall be held at least once per annum, at such place or places as the council may direct. R.S.O. 1937, c. 237, s. 24 (1).

Scope of examinations.

(2) The scope of the examinations and the methods of procedure shall be prescribed by the board of examiners, subject to the approval of council, with special reference to the applicant's ability to design and supervise engineering works which will ensure the safety of life and property. 1946, c. 75, s. 13.

Board to examine degrees, diplomas, etc.

(3) The board shall examine all degrees, diplomas, certificates and other credentials presented or given in evidence for the purpose of obtaining registration or licence to practise, if referred to them by the council, and may require the holder of such degree, diploma, certificate or other credentials to attest on oath, orally or by affidavit concerning the matter of his application.

Candidate to submit to examination.

(4) The candidate shall submit to an examination before the board, or before such members of the board as may be deputed by the council to conduct such examination, on such branch or branches of professional engineering as the candidate may select.

Result of examination to be filed with secretary.

(5) As soon as possible after the close of each examination the members of the board who have conducted such examination shall make and file with the secretary a certificate stating the result of such examinations, whereupon the council shall notify each candidate of the result of his examination and of their decision upon his application.

Failure.

(6) A candidate failing on examination may after an interval of not less than nine months be examined again.

(7) The council shall from time to time prescribe the fees. fees payable by candidates for examination, which fees shall be payable in advance by the candidates. R.S.O. 1937, c. 237, s. 24 (3-7).

21. The council shall have power to establish conjointly with any council of any association similarly constituted in one or more of the provinces of Canada a central examining board, and to delegate to such central examining board all or any of the powers possessed by the said council respecting the examinations of candidates for admission to practise, provided that any examination conducted by such central examining board shall be held in at least one place in Ontario. R.S.O. 1937, c. 237, s. 25.

REGISTER AND REGISTRAR

22.—(1) The registrar shall issue to each member admitted to the Association a certificate of membership signed by the president or a vice-president and the registrar, and bearing the seal of the Association.

(2) Every member shall keep his certificate of membership prominently displayed in his place of business.

(3) Every certificate of membership shall be the property of the Association and shall be returned forthwith by the member to the Association when his membership ceases.

(4) The registrar shall issue a licence to practise to any person entitled thereto, such licence to specify the work upon which and the name of the employer in Ontario by whom the holder of the licence is to be employed and the period for which it is issued, but in no case shall the period extend beyond the end of the calendar year in which the licence is issued.

(5) The registrar shall enroll in the register provided by the council the names of all persons admitted to the Association by the council, also the names of all persons licensed by the council.

(6) The registrar shall keep a record of persons engaged as apprentices or assistants to professional engineers, and undergraduates and graduates who make application to be recorded pursuant to section 13. 1946, c. 75, s. 14.

23. The registrar shall keep the register correct and in accordance with the provisions of this Act and the instructions of the council. R.S.O. 1937, c. 237, s. 27.

24. The annual fee due from a member shall be deemed to be a debt due the Association and may be recoverable with

the costs of same from such member in the name of the council or of the Association in any court of competent jurisdiction. R.S.O. 1937, c. 237, s. 28.

Non-payment
of fees.

25.—(1) Where the annual fee of any member is not paid within six months from the date upon which it became due the secretary shall send a written notice of such default by prepaid registered post to the member's last known address as shown on the register and if payment is not made within one month thereafter the registrar, upon the direction of the council, shall cause the name of the member to be erased from the register and thereupon the member shall cease to be a member.

Resignation.

(2) Any member whose fees are paid up who desires to resign from the Association shall send written notice thereof to the secretary, whereupon the registrar shall cause the name of the member to be erased from the register and thereupon the member shall cease to be a member.

Re-admission.

(3) Any member who ceased to be a member under subsection 1 upon payment of the fees owing at the time he ceased to be a member and the fee for the current year, or any member who ceased to be a member under subsection 2 upon payment of the fee for the current year, and in either case upon production of evidence of good character satisfactory to the council, shall be re-admitted as a member. 1949, c. 76, s. 2, *part*.

Appeal.

26. Where the council refuses,

- (a) to register any applicant for membership;
- (b) to register any applicant for re-admission; or
- (c) to issue a licence to practise to any applicant therefor,

the person aggrieved may apply to a judge of the Supreme Court who upon due cause shown may make an order directing the council to register the name of such person as a member or to grant a licence to practise, or may make such other order as may be warranted by the facts, and the council shall forthwith comply with such order and such order shall be final. 1949, c. 76, s. 2, *part*.

Evidence of
registration.

27. The certificate of registration under the seal of the Association shall be *prima facie* evidence of registration. R.S.O. 1937, c. 237, s. 31.

SUSPENSION OR EXPULSION

Reprimand,
censure,
suspension,
expulsion.

28.—(1) The council may, in its discretion, suspend or cancel the membership or licence of any person who has been

guilty of unprofessional conduct, or of gross negligence or incompetence or of continued breach of the by-laws of the Association, or any member or licensee convicted of a serious criminal offence by a court of competent jurisdiction, or may reprimand or censure such member or licensee.

(2) The council shall not take any such action until after Procedure. a complaint under oath has been filed with the secretary or the registrar, and a copy forwarded to the member or licensee accused, who shall be given an opportunity of submitting evidence in his defence and the council shall not suspend or cancel a membership or licence without having previously summoned the member or licensee to appear before the council, nor without having heard evidence under oath offered in support of the complaint and in behalf of the member or licensee accused.

(3) The council shall have the same powers as commissioners Powers of council. under *The Public Inquiries Act* to compel witnesses to appear Rev. Stat., c. 308. and give evidence under oath in the manner and under penalties prescribed by such Act, and all such evidence shall be taken in writing or by a duly qualified stenographer.

(4) Any person whose membership or licence has been Appeal. suspended or cancelled may within 15 days after the date of the order of suspension or cancellation appeal to the Court of Appeal from such order and the practice and procedure in such appeal shall be the same as upon an appeal from the judgment of the Supreme Court judge presiding at a trial, and the Court of Appeal shall have power to confirm, vary, vacate or set aside such order or to make such other order as it may deem just, and to make an order for payment of the costs of the appeal, and there shall be no further or other appeal.

(5) Pending an appeal the member or licensee whose Pending appeal. membership or licence is suspended or cancelled may continue to practise, but unless the order of suspension or cancellation is set aside he shall not practise after the appeal has been disposed of, except that in the case of a suspension, he may practise upon and after the expiry of the period of suspension. 1946, c. 75, s. 15, *part.*

29. No action shall be brought against the council or No action. any member or officer thereof for anything done under this Act or under any by-law passed in accordance therewith. 1946, c. 75, s. 15, *part.*

PENALTIES

30. Any person in Ontario who, not being registered as a member of the Association in Ontario, or licensed by the Association, Penalty when un-registered or unlicensed person practises.

- (a) uses verbally or otherwise the title of professional engineer, or makes use of any addition to or abbreviation of such title, or of any words, name or designation that will lead to the belief that he is a professional engineer or a member of the Association, or except as permitted by section 2 uses the title or designation "Engineer" in such a manner as will lead to the belief that he is a professional engineer or member of the Association;
- (b) advertises or holds himself out or, except as provided by section 2, conducts himself in any way or by any means as a member of the Association or professional engineer; or
- (c) engages in the practice of professional engineering,

shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$100 and not more than \$200 for the first offence, and of not less than \$200 and not more than \$500 or imprisonment for a term of not more than three months, or both, for any subsequent offence. 1946, s. 75, s. 15, *part, amended*.

Wilful falsification of register.

31. If the registrar makes or causes to be made wilful falsification of the register, or in matters connected therewith, he shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$100. R.S.O. 1937, c. 237, s. 34, *amended*.

Fraudulent representation as to qualifications for membership.

32. Any person who wilfully procures or attempts to procure for himself registration as member in the Association by making, producing or causing to be made or produced any fraudulent representation or declaration, either verbal or written, and any person knowingly aiding and assisting him therein, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$200. R.S.O. 1937, c. 237, s. 35, *amended*.

Penalties payable to Association.

33. Every penalty recovered for an offence against this Act shall be paid over by the convicting magistrate to the Association. R.S.O. 1937, c. 237, s. 36, *part*.

Limit of time for commencement of proceedings.

34. No proceedings shall be commenced for any violation of the provisions of this Act after one year from the date of the committing of such violation. R.S.O. 1937, c. 237, s. 37.

CHAPTER 293

The Property and Civil Rights Act

1.—(1) In all matters of controversy, relative to property and civil rights, resort shall be had to the laws of England as they stood on the 15th day of October, 1792, as the rule for the decision of the same, and all matters relative to testimony and legal proof in the investigation of fact and the forms thereof in the courts of Ontario shall be regulated by the rules of evidence established in England, as they existed on that day, except so far as such laws and rules have been since repealed, altered, varied, modified or affected by any Act of the Imperial Parliament, still having the force of law in Ontario, or by any Act of the late Province of Upper Canada, or of the Province of Canada, or of the Province of Ontario, still having the force of law in Ontario. ^{Rule of decision.}

(2) Nothing in this section shall extend to any of the laws of England respecting the maintenance of the poor. ^{Saving.} R.S.O. 1937, c. 145, s. 1.

CHAPTER 294

The Protection of Cattle Act

1. The owner of any bull found off his owner's premises, not confined or led by an attendant, shall be guilty of an offence and on summary conviction shall be liable to a penalty of \$25. R.S.O. 1937, c. 340, ss. 1, 5. Penalty for permitting bull to run at large.

2. Where a cow is got in calf by a bull running at large, the owner of the cow shall be entitled to recover the full amount of actual damage or loss sustained by him, from the owner of the bull. R.S.O. 1937, c. 340, s. 2. Damages recoverable where cow got in calf.

3. The council of a county may by by-law provide that no service fees shall be collectable in the county for the use of bulls which have not been registered. R.S.O. 1937, c. 340, s. 3. By-law preventing collection of service fees.

4.—(1) The council of a county may require the assessors in the county or any other person appointed by the council for that purpose, to ascertain the number of bulls in the county together with such other particulars as may be necessary to determine the number of pure bred bulls eight months of age or over, and where it appears from such report that the number of such pure bred bulls is not less than 80 per cent of the total number of bulls in the county, the council may by by-law provide that the county shall be known as a "Better Bull Area". Better Bull Area.

(2) After the passing of such by-law and while it remains in force, Restrictions applicable in Better Bull Area.

- (a) no one in the county shall purchase or keep for public service or offer for use or sale except for slaughtering any bull which is not pure bred;
- (b) any bill, poster or other printed matter advertising any bull for sale or public service shall be evidence that such printed matter was issued to advertise the bull mentioned, with the consent of the owner of the bull and such advertising shall be *prima facie* evidence that the bull was being offered for sale or public service;
- (c) service fees shall not be collectable in the county for the service of any bull which is not registered;

- (d) every person who contravenes the provisions of clause *a* or clause *c* shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$10. R.S.O. 1937, c. 340, ss. 4, 5.

Act not to
apply in
certain
cases.

5. This Act shall not apply to a provisional judicial district or to the provisional county of Haliburton, except that the municipal council in an organized municipality in any such district may pass a by-law declaring the municipality a "Better Bull Area", and after the passing of such by-law, the provisions of section 4 shall apply to the municipality. R.S.O. 1937, c. 340, s. 6.

CHAPTER 295

The Provincial Aid to Drainage Act

1. In this Act, "drainage work" means any drainage work to which *The Municipal Drainage Act* applies. R.S.O. 1937, c. 70, s. 1. Interpretation.
Rev. Stat.,
c. 246.

2.—(1) Subject to subsection 2, this Act shall apply to the construction, improvement and reconstruction of, Application
of Act.

(a) the trunk channel or channels of any drainage work, and in computing the cost thereof for the purpose of grants the cost of lateral drains and branches shall not be included but a *pro rata* share of all incidental expenses shall be included;

(b) any work for the purpose of rendering a drainage work more effective by embanking or pumping or other mechanical means, and in computing the cost thereof for the purpose of grants the cost of all pumping machinery installed shall be included. R.S.O. 1937, c. 70, s. 2 (1); 1950, c. 58, s. 1.

(2) This Act shall not apply to the construction of covered drains such as storm sewers, sanitary sewers or sewer outlets. Act not to
apply to
certain
drains.

(3) For the purposes of this Act any contribution in cash towards the cost of the work received by the municipality initiating the work shall be deducted from such cost. R.S.O. 1937, c. 70, s. 2 (2, 3). Contributions to be
excluded.

3. The council of a municipality initiating a drainage work, being or including work to which this Act applies, may, before passing any by-law for undertaking the work, apply to the Lieutenant-Governor in Council by petition verified by a statutory declaration of the engineer and setting forth the reasons why the whole cost of the work should not be assessed upon the land which would be liable to assessment therefor under *The Municipal Drainage Act*, and that aid should therefor be granted, accompanied by a verified copy of the report, a statement of the cash value and the engineer's assessment of the land, and a field plan and profile of the proposed work. R.S.O. 1937, c. 70, s. 3. Application
for aid.

Rev. Stat.,
c. 246.

4.—(1) When it appears to the Lieutenant-Governor in Council that the drainage work is or includes a work to which Examination
and grant
of aid on
report.

this Act applies, the Lieutenant-Governor in Council may cause an examination thereof to be made by an engineer of the Department of Public Works, who shall report fully thereon and upon all matters alleged in the petition, and upon receipt of his report and upon the practical completion of the work the Lieutenant-Governor in Council may pay out of the Consolidated Revenue Fund to the treasurer of the initiating municipality,

- (a) where the work is in a county, thirty-three and one-third per cent; or
- (b) where the work is in a municipality in a territorial district or a provisional county, sixty-six and two-thirds per cent,

of the cost of the work as described and limited in section 2. 1950, c. 58, s. 3.

Distribution
of grant.

(2) The grant shall be distributed by the initiating municipality to other interested municipalities on a *pro rata* basis, according to the engineer's assessment, and in each case the amount of the grant shall be applied to reduce the annual assessment on each property during the life of the by-law. R.S.O. 1937, c. 70, s. 4 (2).

Grants in
territory
without
municipal
organization.

5.—(1) The Lieutenant-Governor in Council may pay out of the Consolidated Revenue Fund an amount not exceeding 80 per cent of the cost of a drainage work as described and limited in section 2, where the work is in a territorial district but not in a municipality.

Regulations.

(2) The Lieutenant-Governor in Council may make regulations prescribing the manner in which, and the terms and conditions under which, grants may be paid under subsection 1. 1950, c. 58, s. 4.

CHAPTER 296

The Provincial Auctioneers Act

1.—(1) The Minister of Agriculture may grant to any person, who in his opinion possesses special qualifications, a ^{Provincial} licence to sell pure-bred live stock only, by public auction in Ontario.

(2) Any person who resides in Ontario shall pay a fee of ^{Fee.} \$50, and any person who does not reside in Ontario shall pay a fee of \$100 for such licence. R.S.O. 1937, c. 250, s. 1.

2. The licence or any renewal thereof shall remain in ^{Term of} force only during the current calendar year of issue. R.S.O. ^{licence.} 1937, c. 250, s. 2.

3. A person holding a licence under this Act shall not ^{Municipal} be required to take out an auctioneer's licence in any muni- ^{licence not} cipality for the sale of pure-bred live stock. R.S.O. 1937, ^{required.} c. 250, s. 3.

4. The Minister may revoke the licence at any time for ^{Revocation} any cause appearing to him sufficient. R.S.O. 1937, c. 250, s. 4. ^{of licence.}

CHAPTER 297

The Provincial Forests Act

1. The several tracts of land described in the Schedule to this Act shall continue to be and to be set apart as provincial forests under the names set out in the Schedule. R.S.O. 1937, c. 38, s. 1. Declaration of lands set apart.

2. The Lieutenant-Governor in Council may establish and set apart any other portions of the public domain as provincial forests, and may add to any provincial forest. R.S.O. 1937, c. 38, s. 2; 1946, c. 89, s. 35 (1). Power to set apart provincial forests.

3. The Lieutenant-Governor in Council may authorize the sale, lease or other disposal of land within a provincial forest for purposes, other than agriculture, which are not inconsistent with the development of the forest. 1943, c. 28, s. 28. Sale, lease or disposal of land.

4. Every provincial forest shall be under the control and management of the Minister of Lands and Forests, and the Lieutenant-Governor in Council may make regulations for its protection, care and management, and for the disposal of land therein. R.S.O. 1937, c. 38, s. 4 (1); 1943, c. 28, s. 29 (1). Control and management.

5. The Lieutenant-Governor in Council may appoint a forester in charge of provincial forests, whose duty it shall be under the Minister of Lands and Forests to carry out any regulations passed under this Act and to have charge, control and management of the provincial forests, and it shall be the duty of such officer to preserve the provincial forests according to the best forestry practice, and to gradually bring them under a sustained yield basis, and generally to have charge, control and management of the provincial forests. R.S.O. 1937, c. 38, s. 5. Appointment of provincial forest officer.

6. Where any timber in any provincial forest or any part thereof has been damaged by fire or has attained commercial maturity the same may be offered for sale, subject to such regulations as may be made by the Lieutenant-Governor in Council. R.S.O. 1937, c. 38, s. 6. Sale of timber, provincial forests.

7. Whenever it is deemed expedient to establish a site for a town or to use land for any purpose other than agricultural purposes. Lieutenant-Governor may withdraw lands for townsite purposes.

settlement within the limits of a provincial forest, the Lieutenant-Governor in Council may withdraw such lands as are necessary for that purpose from such provincial forest, and thereafter this Act shall no longer apply to such lands. R.S.O. 1937, c. 38, s. 7.

Lieutenant-Governor may make order for shooting, game or fishery purposes.

8. On the recommendation of the Minister the Lieutenant-Governor in Council may make such order as may be necessary or proper from time to time for the use of any one or more of the provincial forests, or any part or parts thereof, for shooting, fishing, camping, recreational or instructional purposes not inconsistent with the growth and development of timber. R.S.O. 1937, c. 38, s. 8.

Surrender of cut-over timber land.

9.—(1) The Minister, for the purpose of creating a provincial forest, may arrange with any holder of a timber limit which has been cut over and upon which forest growth exists, or which the Minister is satisfied will generally reproduce timber, for the surrender of such limit or any part thereof, upon such terms and conditions as to the remission of any timber dues or ground rent or any part thereof which may be due or owing to the Crown in respect thereof, and upon such other conditions as may be set forth in the report of the Minister and approved by the Lieutenant-Governor in Council.

Order in Council and report for Assembly.

(2) The Order in Council and the report of the Minister shall be laid before the Assembly within the first two weeks of the Session next after the date of the Order in Council. R.S.O. 1937, c. 38, s. 9.

Penalty.

10. Every person who violates any provision of this Act or any regulation made under this Act, in addition to any other liability, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$50, and shall also be liable for all damages resulting from any such violation to be recoverable in any court of competent jurisdiction. R.S.O. 1937, c. 38, s. 10.

SCHEDULE

The lands hereinafter described shall constitute and be known as provincial forests.

EASTERN PROVINCIAL FOREST

The area known as the Eastern Forest Reserve comprising 100 square miles, more or less, with the following additions thereto, namely: Timber Licences (1927-1928) numbers 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 158, 159, comprising $225\frac{3}{4}$ square miles more or less.

TIMAGAMI PROVINCIAL FOREST

That area known as the Timagami Forest Reserve, comprising 5,830 square miles more or less with the following addition thereto, namely: Timber Licence (1927-1928) number 163, comprising 100 square miles more or less, excepting therefrom that portion of the Township of Lorrain which was included in said Timber Licence (1927-1928) number 163.

MISSISSAGI PROVINCIAL FOREST

That area known as the Mississagi Forest Reserve, comprising 4,896 square miles more or less with the following additions thereto, namely: Timber Licences, numbers 408, 409, 414, 415, 416, 417, 418, 419, 420, 421, 423, comprising 366 square miles more or less.

GEORGIAN BAY PROVINCIAL FOREST

The land vested in the Crown in the following townships—Mowat, Blair, Wallbridge, Brown, Harrison, Burton, Shawanaga and Burpee, comprising 677 square miles more or less.

NIPIGON PROVINCIAL FOREST

That area known as the Nipigon Forest Reserve, comprising 7,100 square miles more or less.

WANAPITEI PROVINCIAL FOREST

All lands vested in the Crown in Norman, Aylmer and Parkin Townships and that portion of Rathbun Township contained in Lots Eleven to Twenty-four in Concessions Four, Five and Six, inclusive; comprising 70 square miles more or less.

KAWARTHA PROVINCIAL FOREST

The portions of the Townships of Harvey, Burleigh and Methuen now vested in the Crown comprising 162 square miles more or less.

R.S.O. 1937, c. 38, Sched. A; 1947, c. 81, s. 1.

CHAPTER 298

The Provincial Land Tax Act

1. In this Act,

Interpreta-
tion.

- (a) "Collector" means Land Tax Collector appointed under this Act; R.S.O. 1937, c. 30, s. 1, cl. (a).
- (b) "land" includes the interest in land of a tenant or occupant, and the interest of the holder of any licence, concession or contract under which there has been acquired from the Crown any right to be exercised in respect of, or over, or upon land and all buildings, improvements, substructures, superstructures and fixtures of an owner in or on land; but does not include,
- (i) the interest of a timber licensee, lessee, grantee or concessionaire in a licence, lease, or agreement issued under *The Crown Timber Act*,^{Rev. Stat., c. 82.} nor any right in timber cut or to be cut by the holder of, or party to such licence, lease or agreement, nor such improvements or equipment as lumber camps, tote roads, telephone lines, hoists, logging railways, dams or booms that may be used only temporarily in connection with logging or lumbering operations conducted under such licence, lease or agreement,
 - (ii) land being held and used for mining purposes acquired under or pursuant to any statute, regulation or law at any time in force authorizing the granting or leasing of Crown lands for such purposes,
 - (iii) ores, mines, minerals or mining rights acquired in any land, and all buildings, improvements, substructures, superstructures, machinery and fixtures erected, made or installed in or on any land for mining purposes,
 - (iv) any fixed machinery which under *The Assessment Act*^{Rev. Stat., c. 24.} would be exempt from taxation in an organized municipality,
 - (v) a power house or a dam or other work for the storage of water or for the conveyance of

water to the power house or any works, machinery, plant or appliances erected, constructed or used for the development of water power,

- (vi) any schoolhouse, building used for educational or charitable purposes, railway right-of-way, railway siding and railway station grounds; R.S.O. 1937, c. 30, s. 1, cl. (b); 1941, c. 55, s. 25.

(c) "Minister" means Minister of Lands and Forests;

(d) "owner" includes a tenant or occupant and any person owning or enjoying an interest in land and the holder of any licence, concession or contract under which there has been acquired from the Crown any right to be exercised in respect of, or over, or upon land;

(e) "prescribed" means prescribed by regulations made under this Act. R.S.O. 1937, c. 30, s. 1, cls. (c-e).

When Act
not to
apply.

2. Taxes shall not be payable under this Act in respect to land situate in any organized municipality nor in respect to any place of worship or land used in connection therewith, or any churchyard, cemetery or burying ground. R.S.O. 1937, c. 30, s. 2.

Annual
tax.

3. There shall be payable by the owner in respect of any lands to which this Act applies an annual tax not exceeding two per cent upon the value of the land or the taxable interest therein or upon such proportion of the value of such land or interest as the Lieutenant-Governor in Council may determine to be imposed and collected as hereinafter provided, but such tax shall not be payable in respect of any of the lands, rights or property mentioned in subclauses i to vi of clause b of section 1, nor in respect of lands the owners of which are declared by the Lieutenant-Governor in Council to be exempt from such tax. R.S.O. 1937, c. 30, s. 3.

Regulations
as to
exemption
from tax.

4.—(1) The Lieutenant-Governor in Council may make regulations describing and determining the persons who and the land which shall be exempt from tax under section 3.

Cancellation
of arrears.

(2) The Lieutenant-Governor in Council may cancel any arrears of tax, interest and penalties in respect of land exempted from taxation under this Act or any predecessor of this Act, or regulations made hereunder or thereunder, and may remit to any person any money paid by such person as tax, interest or penalties under the said Acts in respect of lands exempted from

taxation under the said Acts or regulations made thereunder. 1943, c. 28, s. 30.

5.—(1) The Lieutenant-Governor in Council shall fix the ^{Rate, how fixed and published.} rate to be imposed each year and notice of such rate shall be given in *The Ontario Gazette* on or before the 1st day of July in each year.

(2) The Lieutenant-Governor in Council may upon the ^{Reduction of rate in school sections.} recommendation of the Minister reduce the amount of the tax collectable from the owner in respect of any land situated in any school section for fixing a lower rate in respect of any such school section, and may remit or adjust the amount of the tax in respect of any land and any penalties imposed by this Act.

(3) There shall be payable in respect of all land the owner ^{Amount of tax.} of which is liable to taxation under this Act, a tax of not less than \$4 on each parcel or lot, or where a parcel or lot has been divided or subdivided, on each separate portion into which such land has been divided or subdivided, and where such land has not been divided or subdivided and the total area thereof exceeds 200 acres, the tax thereon shall not be less than \$4 on each 200 acres nor less than two cents an acre on any or all acreage in excess of 200 acres. R.S.O. 1937, c. 30, s. 5; 1950, c. 79, s. 15 (1).

6. The Lieutenant-Governor in Council may appoint an ^{Land Tax Collector, appointment of.} officer to be known as the Land Tax Collector, and may appoint such other officers, clerks and servants as may be deemed necessary for the administration of this Act. R.S.O. 1937, c. 30, s. 6.

7.—(1) Every owner of land in respect of which taxes are ^{Return by owner.} payable under this Act shall, on or before the 1st day of September preceding the year in which the value of the lands for assessment purposes is to be fixed under this Act, transmit to the Collector a statement in the prescribed form setting out the land of which he is owner, the number of acres included therein, and the value thereof, including the value of any improvements, buildings, clearing, fencing, works and structures of every kind.

(2) Every person who after the 3rd day of April, 1928, ^{Statement of owner hereafter acquiring land.} becomes the patentee or grantee from the Crown of land in respect of which taxes are payable under this Act, and every person other than such patentee or grantee from the Crown to whom after that date any such land is assigned, transferred or conveyed shall, on or before the 1st day of September following the date on which he so becomes the owner, transmit to the Collector the statement provided for in subsection 1.

Forms.

(3) Printed forms of return shall be supplied by the Collector upon request of the owner.

Statement as to change in ownership.

(4) Where any person assessed as an owner of land under this Act assigns, transfers or otherwise conveys his interest in such land he shall give notice to the Collector of such assignment, transfer or conveyance and the name and post office address of the person to whom the same was made, and in default such owner may be held liable for all taxes then payable or thereafter imposed in respect of such land until such notice is given. R.S.O. 1937, c. 30, s. 7.

Return as to lands exempt.

(5) Where the owner of any land claims that is has become exempt from taxation under this Act, he shall transmit the statement required by subsection 1 or subsection 2 to the Collector and shall state on such return that he claims that the land is exempt and give his reasons therefor and in default of transmitting such statement the owner shall be liable for the taxes, subject however to any determination which the Minister may make if a return is subsequently filed. 1940, c. 21, s. 2.

Right to search registry and land titles office free of charge.

8. Any person duly authorized by the Minister in writing may, for the purpose of ascertaining the names and addresses of owners of land liable to taxation under this Act, search and inspect registry books and indexes in registry offices and books and documents in the custody of masters of titles, and no charge shall be made by and no fee shall be payable to a registrar or master of titles for any such search or inspection. R.S.O. 1937, c. 30, s. 8.

Returns, verification by Collector.

9.—(1) The Collector shall check and verify the returns received by him from owners and shall not be bound to accept any such return as determining the value of any land or improvements or works for the purpose of fixing the amount of taxes payable under this Act.

Valuation of land.

(2) The value to be put upon any land for the purposes of this Act shall be the price which it might reasonably be expected to bring if offered for sale in the open market by a solvent owner.

Valuation of improvements.

(3) Where any industry, including manufacturing of pulp, lumbering, saw mills, fisheries or other operations is carried on, the land and improvements shall be valued as the property of a going concern. R.S.O. 1937, c. 30, s. 9.

Register to be kept by Collector.

10. The Collector shall keep in his office a register in the prescribed form in which shall be entered the name of every owner making a return under this Act with such other particulars as may be prescribed. R.S.O. 1937, c. 30, s. 10.

11.—(1) Subject to section 3, where the return of an owner has been accepted by the Collector the value of his land or of his interest therein as shown in such return shall be the assessed value thereof until a subsequent return is made by the owner as required by section 7. Assessed value of land.

(2) If the value of land shown in the return of an owner is not accepted, notice of dispute shall be sent by the Collector by prepaid registered post to the owner at his last known address within 90 days of the receipt of the return, and the Collector shall state in the notice the value at which he assesses the land for the purpose of taxation under this Act and unless a complaint is filed by the owner as provided in this section such assessed value shall be the assessed value of the land until the next ensuing triennial assessment. Disputed value of land.

(3) Where a return is filed under subsection 2 of section 7 and the value of the land shown therein is disputed by the Collector, the Collector shall value the land in accordance with section 9 and such value shall be the assessed value thereof until the next ensuing return is made by the owner for the purposes of a triennial assessment. Value of land under s. 7, subs. 2.

(4) Where there has been a rapid depreciation in the value of land and the improvements thereon by reason of damage or destruction or where an incorrect return has been made, the Collector may alter the assessment of an owner at any time to the reasonable value of his land and improvements. Altering assessments.

(5) Where an owner whose land is subject to taxation under this Act makes improvements thereon he shall during the same calendar year notify the Collector of the value thereof and his assessment shall be altered to include the value of such improvements which shall be subject to taxation in the next ensuing year. Improvements made after assessment.

(6) Every owner who has filed a return as required by section 7 who desires to complain as to his assessment shall, on or before the 1st day of May in the year fixed for a triennial assessment, send to the Collector by prepaid registered post a notice of complaint in the prescribed form. Complaints.

(7) Notwithstanding the sending of any notice provided for in this section, the Collector, at any time before the date for the hearing of any complaint has been fixed, may correct any errors in or otherwise alter any assessment, and he shall do so upon notice being given to him of any errors and upon so correcting or altering any assessment he shall send by prepaid registered post to the person assessed particulars of the correction or alteration. 1940, c. 21, s. 3. Correction of errors.

Notice of
hearing of
complaints.

12. Where complaints are transmitted to the Collector within the time hereinbefore limited, the Collector shall, at least 15 days before the date of the hearing of the complaint, notify each person who has made a complaint of the time and place at which the judge of the county or district court shall sit for the tax division for the purpose of hearing complaints with regard to the value of the land in respect of which the owner is taxable. R.S.O. 1937, c. 30, s. 12.

Hearing.

13.—(1) The judge shall attend at the time and place arranged by the Collector for the hearing of such complaints, and, if no complaints are received within the time hereinbefore limited therefor, the sittings may be cancelled.

Finality
of decision.

(2) The assessment as determined by the judge shall be final and binding and shall not be open to question or dispute in any action or proceeding or otherwise, and shall be deemed to be the assessable value of the land for the purpose of this Act for the year for which the assessment is made and for each year thereafter until the next following triennial assessment comes into effect. R.S.O. 1937, c. 30, s. 13.

When
assessment
to be made.

14.—(1) Where statements are required to be filed under subsection 2 of section 7, assessments may be made at any time.

Triennial
assessment.

(2) Subject to subsection 1, assessments under this Act shall be made triennially and the triennial periods of assessment shall commence in the year 1928. R.S.O. 1937, c. 30, s. 14.

Powers of
judge.

15. The judge upon the hearing of any complaints under this Act shall have the like powers as nearly as may be as in the case of a judge sitting for the hearing of appeals from the court of revision under *The Assessment Act* and the procedure for the hearing of complaints under this Act shall be, as nearly as may be, the same as the procedure under *The Assessment Act*, except that the judge, in the absence of the consent of the Collector or his agent, shall hear such complaints only as are included in the list of assessments provided by the Collector as required by section 16. R.S.O. 1937, c. 30, s. 15.

Rev. Stat.,
c. 24.

Attendance
of Collector
at hearing of
complaints.

16. The Collector or his agent shall attend at every sittings of the judge and shall have with him at the sittings a list of assessments as to which notices of appeal have been given as above provided, containing the names of the owners of land liable to assessment and taxation in the tax division for which the sittings are held, and he shall correct, alter and amend the roll in accordance with the directions of the judge. R.S.O. 1937, c. 30, s. 16.

17.—(1) The annual tax imposed by this Act shall be for Tax bills. the calendar year and a tax bill shall be mailed by the Collector post paid to every owner of land subject to taxation at his last known address on or before the 1st day of December in the year preceding that for which the tax is payable, and such tax bill shall show the assessed value of the land, the rate of taxation, the amount of the tax payable and such other information as may be prescribed.

(2) The annual tax imposed by this Act shall become due When tax is payable. and be payable on the 1st day of February in the year for which it is imposed. 1940, c. 21, s. 4.

18. Where any tax under this Act remains unpaid on the 1st day of March in the year for which it is payable a penalty of Penalty and interest on unpaid taxes. five per cent shall be added thereto and in addition such tax and penalty shall bear interest at the rate of six per cent per annum from such 1st day of March until paid and for all purposes the amount of such tax, penalty and interest shall be deemed to be tax due and payable under this Act. 1944, c. 47, s. 1.

19.—(1) Every tax and penalty imposed by this Act shall be a special lien on the land upon or in respect of which such tax or penalty is imposed in priority to every claim, privilege, lien or encumbrance, heretofore or hereafter created, of every person, and the lien and its priority shall not be lost or impaired by any neglect, omission or error of the Minister or the Collector or of any other officer, clerk or servant appointed or assigned to any work in the course of the administration of this Act or by want of registration. Taxes and penalties to be lien on land.

(2) The owner or any person entered on the records of the Collector as the owner of any land shall be personally liable for Owner liable for taxes and penalties. all taxes and penalties imposed by this Act in respect of such land, and the Collector may bring an action in his name of office for the recovery thereof in any court in which a debt or money demanded of a similar amount may be collected. 1940, c. 21, s. 6.

20. In addition to the collection of arrears of taxes by Collection by distress. action as hereinbefore provided, the Collector may distrain for the same and shall have the like powers in that regard as a collector of taxes for a municipal corporation. R.S.O. 1937, c. 30, s. 20.

21.—(1) Where taxes imposed under this Act on land or Forfeiture for non-payment. any interest therein remain unpaid for a period of two years, the Minister or the Deputy Minister of Lands and Forests by a

certificate in writing, may declare the lands or the interest therein of the owner or of any person claiming title or an interest therein through such owner forfeited to the Crown and upon publication of such certificate or of a notice of forfeiture in *The Ontario Gazette*, all right, title, interest, claim or demand of the owner or of any person claiming through him in or to the lands shall cease and determine and the lands or the interest of the owner or of any person claiming through him shall be vested in His Majesty for the use of the Province of Ontario free and clear of all mortgages, liens, encumbrances, charges, rates and taxes and after the expiration of one year from the date of such publication the said lands may be re-granted, sold, leased or otherwise disposed of in the same manner as public lands may be dealt with under the laws of Ontario.

Forfeiture to be annulled on payment of taxes within one year.

(2) Where an owner or his representative within one year from the date of such publication pays or tenders to the Minister or the Deputy Minister of Lands and Forests the amount of all taxes due with respect to any land so declared forfeited together with any penalties and interest and costs payable in respect thereof in accordance with this Act and the regulations, the Minister or Deputy Minister of Lands and Forests shall issue a certificate in writing signed by him and under the seal of the Department of Lands and Forests declaring such forfeiture cancelled, and upon the registration of such certificate in the proper registry or land titles office such forfeiture shall be annulled and the land shall be re-vested in such owner or his representative according to the tenor of such certificate.

Lands forfeited in error.

(3) Where lands have been forfeited in error the Minister or the Deputy Minister of Lands and Forests may at any time relieve from forfeiture by issuing a certificate.

Relief where period of redemption expired.

(4) Notwithstanding the expiration of the period of redemption allowed by subsection 2, the Minister or the Deputy Minister of Lands and Forests may relieve from forfeiture upon such terms as may be deemed advisable and issue a certificate to that effect if the Crown has made no disposition of the forfeited lands. 1940, c. 21, s. 7.

Right of mortgagee with respect to taxes.

22. A mortgagee, lienholder or other person being the holder of a mortgage or charge upon any land in respect of which the taxes imposed by this Act are or may be payable, shall have and possess the same rights and remedies with respect to such taxes and the liability of the owner for the payment thereof as such mortgagee, lienholder or holder of a charge would have with regard to municipal taxes payable in respect to land in an organized municipality. R.S.O. 1937, c. 30, s. 22.

23. Every owner who refuses or neglects to make the return required by this Act within the prescribed period shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$5 and not more than \$50 for every day in which he is in default in making such return. R.S.O. 1937, c. 30, s. 23; 1940, c. 21, s. 9. ^{Penalties; not making returns.}

24. Every owner who knowingly and wilfully makes a false return of any property liable for taxation under this Act shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$500 and in default may be imprisoned for a term of not more than six months. R.S.O. 1937, c. 30, s. 24; 1940, c. 21, s. 9. ^{Making false returns.}

25. The Lieutenant-Governor in Council may make regulations, ^{Regulations.}

- (a) prescribing the form of return to be made by owners of land under this Act;
- (b) prescribing the duties of the officers appointed for the administration of this Act and the collection of the taxes hereby imposed and the security to be given by such officers for the due performance of their duties and the due collection of and accounting for taxes received under this Act;
- (c) dividing the Province or any part thereof into tax divisions for the purposes of this Act;
- (d) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1937, c. 30, s. 25.

26.—(1) A tax bill shall be deemed to be delivered to an owner of land subject to assessment and taxation under this Act or to his agent or representative where it is mailed post paid to the last known address of such owner, agent or representative. ^{Delivery of tax bills.}

(2) Any notice of complaint or dispute as to valuation of land or any other notice required by or given under the provisions of this Act may be given by sending it by prepaid registered mail to the Collector, or to the last known address of the owner of the land or of any person interested in the land, as the case may be, and such notice shall be deemed to have been received when it was so mailed. 1940, c. 21, s. 8. ^{Delivery of notices.}

CHAPTER 299

The Provincial Loans Act

1.—(1) The Lieutenant-Governor in Council may create a permanent provincial stock, which shall be known as Ontario Government Stock, and shall be personal property, and the stock, and the interest thereon, shall be charged upon and paid out of the Consolidated Revenue Fund. R.S.O. 1937, c. 22, s. 1 (1). Creating permanent provincial stock.

(2) The Lieutenant-Governor in Council may at the time of the issue of such stock fix the date at which it shall be redeemed. R.S.O. 1937, c. 22, s. 1 (3). Time of redemption of government stock.

2. The Lieutenant-Governor in Council may make such regulations as he deems necessary for the management of the public debt and the payment of the interest thereon, including regulations for the inscription, registration, transfer, management, exchange and redemption of securities or any class or type thereof, and may, subject to section 3, provide for the creation and management of a sinking fund or other means of securing the repayment of any loan raised by the authority of the Legislature; and may appoint one or more fiscal agents and agree with them as to the rate of compensation to be allowed them for negotiating loans, and for paying the interest of the debt; and may pay the sums necessary to provide the interest, the sinking fund or other means aforesaid, and such compensation out of the Consolidated Revenue Fund. R.S.O. 1937, c. 22, s. 2; 1949, c. 78, s. 2. Regulations as to debt, payment of interest, fiscal agents, etc.

3.—(1) Where in any Act authority is given to the Lieutenant-Governor in Council to raise any sum of money by way of loan, unless there is some provision to the contrary in the Act by which the authority is given such sum shall, in the discretion of the Lieutenant-Governor in Council, be raised in one of the following ways, or partly in one and partly in another or others thereof, Raising loans, etc., authorized by Legislature,

- (a) by the issue and sale of debentures of Ontario which shall be in such form or forms, shall be for such separate sums, shall bear interest at such rate or rates, shall be payable as to principal and interest at such times and places, and shall contain or be subject to such conditions or provisions with respect to the registration and transfer thereof and with by issues of debentures;

respect to the exchange of debentures of one form or denomination for debentures of a different form or denomination of equivalent aggregate principal amount and bearing the same rate of interest, as the Lieutenant-Governor in Council may deem expedient, the principal of such debentures and the interest thereon to be charged on and paid out of the Consolidated Revenue Fund;

by issue of
Ontario
Govern-
ment stock;

- (b) by the issue and sale of Ontario Government stock, bearing such rate of interest as is deemed expedient, payable half-yearly, and the principal and interest whereof shall be charged on and paid out of the Consolidated Revenue Fund;

by grant of
terminable
annuities;

- (c) by the granting of terminable annuities charged on and to be paid out of the Consolidated Revenue Fund, on terms in accordance with what the Lieutenant-Governor in Council may deem to be the most approved English tables, and based on a rate of interest not exceeding four per cent per annum, and subject to such regulations as the Lieutenant-Governor in Council may make;

by issue of
exchequer
bills or
bonds, or
treasury
bills.

- (d) by the issue and sale of exchequer bills, exchequer bonds or treasury bills, in sums of not less than \$400 each, in such form and payable at such periods and places as the Lieutenant-Governor in Council deems expedient and subject to such regulations as he may make, or by temporary loans, and the interest thereon and the amount of such bills or bonds shall be charged on and paid out of the Consolidated Revenue Fund. R.S.O. 1937, c. 22, s. 3, (1); 1949, c. 78, s. 3.

Raising
loans for
refunding
purposes.

(2) The Lieutenant-Governor in Council is hereby authorized to raise money by way of loan in such manner and at such times as may be deemed expedient by the issue and sale of securities of one or more of the classes specified in subsection 1, in such amounts as will realize the net sum required for any or all of the following purposes:

- (a) payment, refunding or renewal from time to time of the whole or any part of any loan made or securities issued under this or any other Act, notwithstanding that the issue of securities for such purpose may have the effect of increasing the amount of the public debt;
- (b) payment of the whole or any part of any loan or of any liability or of any bonds, debentures or other securities, payment whereof is guaranteed or assumed by the Province of Ontario.

(3) A recital or declaration in the Order of the Lieutenant-Governor in Council authorizing the issue and sale of securities to the effect that the amount of the securities so authorized is necessary to realize the net sum required to be raised by way of loan shall be conclusive evidence of that fact.

Effect of
recital in
Order.

(4) On authorizing the issue of debentures or stock under clauses *a* or *b* of subsection 1, the Lieutenant-Governor in Council may provide for a special sinking fund with respect to such issue, and may at any time provide for a general sinking fund for all such portions of the debentures or stock as have been or are hereafter issued without provision for a sinking fund with respect to them; provided that the amount to be invested out of the Consolidated Revenue Fund in any such sinking fund shall not exceed one-half of one per cent per annum on the amount of the debentures or stock to which it relates.

Lieutenant-
Governor in
Council may
provide a
sinking fund,
general or
special.

(5) Any of such securities may be made payable in any currency.

Securities
payable
in any
currency.

(6) Where a sum has heretofore been or is hereafter temporarily raised by way of loan by the issue and sale of exchequer bills, exchequer bonds or treasury bills as provided in clause *d* of subsection 1, the Lieutenant-Governor in Council, upon the maturity of such exchequer bills, exchequer bonds or treasury bills, or before the maturity thereof, may direct that a further issue be made of such exchequer bills, exchequer bonds or treasury bills to the amount of those maturing, or may direct the issue and sale of debentures of Ontario, of Ontario Government stock or of terminable annuities for the retirement of such exchequer bills, exchequer bonds or treasury bills before or upon their maturity, and any debentures, Government stock or terminable annuities so issued shall be redeemable or payable within the term of years fixed by the Act authorizing the loan and such term shall be reckoned from the date of the issue of such debentures, Government stock or terminable annuities, but nothing in this subsection shall authorize the issue of any security beyond the amount of any loan authorized by Act of the Legislature.

Issue of new
securities on
maturity of
treasury
bills.

(7) Where a sum has heretofore been or is hereafter raised by temporary loan the Lieutenant-Governor in Council may from time to time retire such temporary loan or any part thereof by the issue of treasury bills to an equal amount, or may direct the issue and sale of debentures of Ontario, of Ontario Government stock or of terminable annuities for the retirement of such temporary loan, and any debentures, Government stock or terminable annuities so issued shall be redeemable or payable within the term of years fixed by the

Issue of new
securities for
retirement of
temporary
loan.

Act authorizing the loan, and such term shall be reckoned from the date of the issue of such debentures, Government stock or terminable annuities; but nothing in this subsection shall authorize the issue of any security beyond the amount of any loan authorized by Act of the Legislature.

Debentures,
bonds, etc.,
to contain
authority.

(8) All debentures, bonds, certificates for inscribed stock or annuities, exchequer bonds or treasury bills issued by the Lieutenant-Governor in Council upon the authority and credit of the Province for obtaining money by way of loan shall contain in the body of the debenture, bond or other document a statement of the particular Act or legislative authority under which the loan has been authorized, and no bonds issued after the 1st day of July, 1922, shall be valid unless such statement of the legislative authority for the particular loan is contained in the body of the debenture, bond or other security.

Advertise-
ment to
contain
authority.

(9) In any advertisement for the sale of debentures, bonds or of other securities set out in subsection 8, issued in the name of the Treasurer of Ontario or any other provincial officer there shall be contained a statement of the legislative authority under which the loan is authorized. R.S.O. 1937, c. 22, s. 3 (2-8).

Register for
inscribed
stock of
Ontario.

4. The Lieutenant-Governor in Council may direct that the whole or any part of Ontario Government stock be inscribed and transferred in a register kept in the United Kingdom, or in any foreign country, at such place, and by such bank, officer or person as he may appoint. R.S.O. 1937, c. 22, s. 4.

Lieutenant-
Governor
to have
such stock
recorded.

5.—(1) The Lieutenant-Governor may, under the Great Seal or in Council, authorize any person to make any declaration, and take any steps necessary to record such inscribed stock or any portion thereof under and in accordance with the provisions of the Imperial Acts, known as the Colonial Stock Acts of 1877 to 1900, or any amendments thereof.

Payment,
etc.,
authorized.

(2) The Treasurer of Ontario may, out of the Consolidated Revenue Fund, pay, satisfy and discharge any judgment, decree, rule or order of a court in the United Kingdom, which, under the provisions of section 20 of *The Colonial Stock Act, 1877*, or any amendment thereto, is to be complied with by the registrar of the inscribed stock of Ontario in England.

Payment
of lost
debentures
and coupons.

(3) In the event of the loss of any debenture or coupon for interest on any debenture, the Treasurer of Ontario may pay the amount thereof out of the Consolidated Revenue Fund and may take a bond in such amount and in such form as

he may deem advisable, indemnifying the Province of Ontario against loss in respect of such payments. R.S.O. 1937, c. 22, s. 5.

6. The Lieutenant-Governor in Council may change the form of any part of the debt of Ontario by substituting one security for another, provided that neither the capital of the debt nor the annual charge for interest is thereby increased, except where a security bearing a lower rate of interest is substituted for one bearing a higher rate of interest, in which case only the amount of the capital may be increased by an amount not exceeding the difference between the then present value of the securities; but such substitution shall not be made unless the consent of the holder of the security for which another is substituted is obtained, or such security is previously purchased or redeemed by or on account of Ontario, and such substitution may be made by the sale of a security of one class and the purchase of that for which it is desired to substitute it. R.S.O. 1937, c. 22, s. 6; 1949, c. 78, s. 4.

Power to change form of debt.

7. The Treasurer of Ontario may cancel any or all debentures, bonds and other securities of the Province of Ontario which come into his hands through purchase for sinking fund or otherwise, and upon cancellation such debentures, bonds and other securities shall cease to be a charge upon the Consolidated Revenue Fund. R.S.O. 1937, c. 22, s. 7.

Power to cancel debentures, etc., acquired on sinking fund account.

8. No officer or person employed in the inscription, registration, transfer, management or redemption of any of the aforesaid securities, or in payment of any dividend or interest thereon, shall be bound to see to the execution of any trust, expressed or implied, to which such securities are subject, or shall be liable in any way to any person for anything done by him in accordance with any such regulation. R.S.O. 1937, c. 22, s. 8 (2).

Officers not bound to see to trusts.

9. All money raised by the issue and sale of any of the aforesaid securities shall be paid to the Treasurer, and shall form part of the Consolidated Revenue Fund. R.S.O. 1937, c. 22, s. 9.

Money raised to form part of Con. Rev. Fund.

10. The Lieutenant-Governor in Council may direct that money invested in Ontario Government stock, bonds or debentures and the interest thereon shall be free from all provincial taxes, succession duty, charges and impositions and from municipal taxation. R.S.O. 1937, c. 22, s. 10.

Exemption from taxation.

11. Nothing in this Act shall authorize any increase of the public debt without the express authority of the Legisla-

Debt not to be increased except as herein provided.

ture, except in the manner and to the extent hereinbefore mentioned. R.S.O. 1937, c. 22, s. 11.

Provincial
securities,
how
executed.

12.—(1) The Lieutenant-Governor in Council may provide for the manner of executing provincial securities, and that the signature of the Treasurer of Ontario upon provincial securities and the coupons attached thereto may be lithographed or engraved, the securities being in such case countersigned by the Assistant Treasurer or such officer or officers of the Treasury Department as may be appointed for the purpose.

Authority
for
temporary
loans and
overdrafts.

(2) Where in any Act authority is given to the Lieutenant-Governor in Council to raise any sum of money by way of loan, the Lieutenant-Governor in Council may from time to time authorize the Treasurer of Ontario to raise the whole or any part thereof by temporary loan, and in such case, unless the Lieutenant-Governor in Council otherwise directs, such sum as the Treasurer is authorized to raise by temporary loan or any part thereof may be raised by way of cheques creating overdrafts having the facsimile signature of the Treasurer of Ontario affixed thereto by the use of a rubber stamp or by printing, lithographing or engraving and bearing such signatures or countersignatures of other officers, who for the time being are authorized to sign or countersign cheques, as would make such cheques if not creating overdrafts binding on the Province of Ontario, and all moneys paid in honouring any such cheque by any bank upon which such cheque is drawn shall conclusively be deemed to have been raised by the Lieutenant-Governor in Council in pursuance of such Act. R.S.O. 1937, c. 22, s. 12.

Securities
heretofore
issued
protected.

13. Nothing in this Act shall impair or prejudicially affect the rights of the holder of any securities issued before the 14th day of April, 1908. R.S.O. 1937, c. 22, s. 13.

CHAPTER 300

The Provincial Parks Act

1. In this Act,

Interpre-
tation.

(a) "Minister" means Minister of Lands and Forests;

(b) "public lands" means lands vested in the Crown.
1950, c. 59, s. 1.

2.—(1) The public lands reserved, set apart and known as Algonquin Provincial Park, Ipperwash Provincial Park, Lake Superior Provincial Park, Quetico Provincial Park, Rondeau Provincial Park and Sibley Provincial Park shall continue to be reserved, set apart and known as provincial parks. 1950, c. 59, s. 2 (1, 2).

Present
parks con-
tinued.

(2) The Lieutenant-Governor in Council may delimit any provincial park and may reserve and set apart as provincial parks any other public lands and may increase or decrease the area of any provincial park. 1950, c. 59, s. 2 (3).

Power to
delimit,
add to and
subtract
from parks.

3. Any land reserved and set apart as a provincial park or a part thereof shall be deemed to be severed from the municipality, if any, of which it formed a part as from the date that it became a provincial park or a part thereof. 1950, c. 59, s. 3.

Separation
from muni-
cipality.

4. Where any public lands are reserved and set apart as a provincial park and such public lands include any lands that are open for settlement or sale under *The Public Lands Act*, such lands shall be deemed not to be open for settlement or sale. 1950, c. 59, s. 4.

Park lands
not open
for settle-
ment or sale.
Rev. Stat.,
c. 309.

5. Prospecting and staking out of mining claims or the development of mineral interests or the working of mines in provincial parks is prohibited, except as may be provided by the regulations under this Act. 1950, c. 59, s. 5.

Prospecting,
mining, etc.,

6. The Minister shall control and manage the provincial parks. 1950, c. 59, s. 6.

Control and
manage-
ment.

7. There shall be a district forester or a superintendent in charge of each provincial park who shall have such powers and perform such duties as are set out in this Act or prescribed in the regulations under this Act. 1950, c. 59, s. 7.

Administra-
tors.

Police
officers.

8. Every district forester and superintendent in charge of a provincial park and every forest ranger in a park shall have all the power and authority of a member of the Ontario Provincial Police Force. 1950, c. 59, s. 8.

Sale of
liquor.
Rev. Stat.,
c. 210.

9. No licence or other authority shall be issued for the sale of liquor as defined in *The Liquor Control Act* within any provincial park. 1950, c. 59, s. 9.

Conserva-
tion of
wild life,
etc.

10. During and after the construction of any railway, highway, road, transmission line, pipe line, water power development, or other work or the carrying on of any woods, mining, industrial or other operation in a provincial park the Minister may take such measures as he may deem proper for the protection of fish, animals and birds and any property or interest of the Crown, and any expenses incurred by the Crown in connection with such protective measures shall be borne and paid by the person who caused the work to be done or the operation to be carried on and shall be recoverable by the Minister in any court of competent jurisdiction. 1950, c. 59, s. 10.

Regulations.

11.—(1) The Lieutenant-Governor in Council may make regulations,

- (a) for the care, preservation, management and improvement of provincial parks and of the watercourses, lakes, trees, shrubbery, minerals, natural curiosities and other things therein;
- (b) designating parts of provincial parks in which land may be leased or occupied under a licence of occupation for private or commercial purposes; regulating the location of sites that may be so occupied, and limiting the number of commercial resorts in each of the parts so designated;
- (c) prescribing the terms and conditions governing the cost or type of construction and the location of buildings or structures that may be erected under any lease or licence under clause *b*;
- (d) for licensing and controlling or prohibiting trades, businesses, amusements, sports, occupations and other activities or undertakings in provincial parks;
- (e) for licensing and governing guides in provincial parks;
- (f) for issuing permits for and governing the use of power boats on waters in provincial parks;
- (g) for issuing permits to persons to enter and travel about in provincial parks;

- (h) for regulating and governing air, vehicular and pedestrian traffic in provincial parks and prohibiting the use of any defined class of vehicles therein;
- (i) providing for prospecting and staking out of mining claims or the developing of mineral interests, or the working of mines, in provincial parks and for the issuing of licences of occupation for such purposes and the collection of fees or rentals therefor by the Minister of Mines;
- (j) for regulating the use, setting out and extinguishment of fires in provincial parks;
- (k) for prohibiting or regulating and governing the erection, posting up or other display of notices, signs, sign-boards and other advertising devices in provincial parks;
- (l) for prohibiting or regulating and governing horses, dogs and other animals in provincial parks;
- (m) prescribing the fees and rentals payable to the Crown for any licence, permit or lease issued or made under this Act or the regulations made thereunder;
- (n) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act.

(2) Any regulation made under subsection 1 may be made applicable to any provincial park or any part thereof. 1950, c. 59, s. 11. Application of regulations.

12. Every person who fails to comply with any provision of this Act or any regulation made under this Act shall be guilty of an offence and on summary conviction shall be liable to a penalty of not more than \$100. 1950, c. 59, s. 12. Penalty.

13. Any regulation relating to the computation of time for performing work in respect of mining claims staked in Lake Superior Provincial Park that may be made under clause i of subsection 1 of section 11 may provide that in cases of mining claims recorded before the 1st day of November, 1949, and that are in good standing, the time for performing work shall be computed from the 1st day of November, 1949, and in cases of mining claims recorded after the 1st day of November, 1949, the time for performing work shall be computed from the date of recording. 1950, c. 59, s. 13. Time for performing work on mining claims.

CHAPTER 301

The Psychiatric Hospitals Act

1. In this Act,

Interpreta-
tion.

(a) "applicant" means the person who signs the application for the admission of a patient into a psychiatric hospital, or who voluntarily makes application for such admission;

(b) "inspector" means an inspector appointed under *The Mental Hospitals Act*;

Rev. Stat.,
c. 229.

(c) "Minister" means the member of the Executive Council charged for the time being with the administration of *The Mental Hospitals Act*;

(d) "patient" means any person receiving care or treatment in or by a psychiatric hospital under the authority of this Act;

(e) "prescribed" means prescribed by this Act or by regulations made under this Act. R.S.O. 1937, c. 393, s. 1.

2. The corporation of a city having a population of over 100,000, with the approval of the Lieutenant-Governor in Council, may establish and equip a psychiatric hospital for the observation, temporary care and treatment of residents of the municipality suffering from psychiatric disabilities who are not ineligible under this Act for admission to such hospital and who, in the opinion of a legally qualified medical practitioner, are suitable subjects for and may be benefited by such observation, care and treatment. R.S.O. 1937, c. 393, s. 2.

City by-law
establishing.

3. Before a psychiatric hospital is established the plans and site selected therefor shall be approved by the Lieutenant-Governor in Council. R.S.O. 1937, c. 393, s. 3.

Approval
of plans
and site.

4.—(1) Upon the completion of the erection and equipment of a psychiatric hospital the Lieutenant-Governor in Council shall designate it as "The Psychiatric Hospital" (*inserting the name of the municipality*) and shall describe by metes and bounds the premises which shall be deemed to be included in such designation.

Designation
by
Lieutenant-
Governor
in Council.

Minister
to be in
control.

(2) The psychiatric hospital shall thereafter be under the control of the Minister. R.S.O. 1937, c. 393, s. 4.

Cost of
mainten-
ance.

5. The cost of maintenance of a psychiatric hospital in excess of the amount provided by or on behalf of patients admitted for treatment therein and by the city shall be paid out of such moneys as may be appropriated by the Legislature for that purpose. R.S.O. 1937, c. 393, s. 5.

Accounts
to be kept.

6. A separate account shall be kept in the office of the inspector for every psychiatric hospital and there shall be credited to the account,

- (a) the income received from or on behalf of the patients admitted or treated therein;
- (b) the income received from the municipality for the maintenance of patients who are treated in the hospital;
- (c) the legislative grant;
- (d) moneys received from any other source. R.S.O. 1937, c. 393, s. 6.

Application
of receipts.

7. Moneys received from any other source than the legislative grant shall be paid monthly by the bursar of the hospital and by the inspector to the Treasurer of Ontario and any balance remaining in the possession of the bursar or the inspector at the close of the fiscal year shall be forthwith paid to the Treasurer of Ontario. R.S.O. 1937, c. 393, s. 7.

Appoint-
ment of
officers.

8. The Lieutenant-Governor in Council may from time to time appoint a superintendent and bursar and such officers and employees as he may deem necessary for the psychiatric hospital and may fix their salaries and prescribe their powers and duties. R.S.O. 1937, c. 393, s. 8.

Admission
to hospital.

9.—(1) Any person who is, or who is believed to be in need of such treatment as is provided in a psychiatric hospital and who, except in the cases provided for in clauses *b* and *e* has been a resident of the municipality in which the psychiatric hospital is located for three months in all within the period of five months prior to the date of application for admission, may be admitted thereto for such treatment,

- (a) as a voluntary patient upon application in the prescribed form;
- (b) upon the warrant of the Lieutenant-Governor;

- (c) upon the certificate of a legally qualified medical practitioner in the prescribed form and accompanied by the prescribed application and history form and upon provision being made for payment of the maintenance of the patient at such rate as may be fixed by the inspector subject to the provisions of this Act and the regulations;
- (d) upon the certificate mentioned in clause *c* and the written order of the inspector directing the transfer of a patient from a general hospital to the psychiatric hospital where the period during which the patient is in the general hospital does not form part of a term for which he was sentenced to serve in a jail or other penal institution;
- (e) upon the order of a judge or magistrate having jurisdiction in the municipality in which the hospital is located, accompanied by the prescribed history form, remanding a person to a psychiatric hospital for further observation, care or treatment where the person has been apprehended either with or without warrant by a constable or other police officer and is under the age of 70 years and not ineligible for treatment in a psychiatric hospital under the provisions of this Act and it appears to the judge or magistrate that the person may be mentally ill, and any person so remanded shall be deemed to be a resident of the municipality in which the order for such remand is made.

(2) The certificate mentioned in clause *c* shall be sufficient authority to a police officer or to any other person to convey a person to a psychiatric hospital and to the authorities of the hospital for his detention therein.

Authority to convey patient to hospital.

(3) Where a person admitted to a psychiatric hospital under clause *e* of subsection 1 appears to the superintendent to be mentally ill, mentally defective or an epileptic within the meaning of *The Mental Hospitals Act*, he shall direct the medical examination of the person and proceed in the same manner generally as is provided in section 20 of *The Mental Hospitals Act*, and if the person is certified to be mentally ill, mentally defective or an epileptic within the meaning of *The Mental Hospitals Act*, as provided by that Act the documents mentioned in the said section shall be transmitted to the inspector who shall arrange for the transfer of the person to an institution under *The Mental Hospitals Act*.

Patient found to be mentally ill, etc.

Rev. Stat., c. 229.

(4) A person admitted to a psychiatric hospital under clause *e* of subsection 1 who does not appear to the superin-

Discharge where patient not mentally ill, etc.

Rev. Stat.,
c. 229.

tendent to be mentally ill, mentally defective or an epileptic within the meaning of *The Mental Hospitals Act*, shall be discharged forthwith into the care of the court by which he was remanded to the psychiatric hospital and the certificate of the superintendent or of any legally qualified medical practitioner who is a member of the staff of the hospital shall be sufficient authority for the granting of the discharge.

Expenses
to be paid
by city.

(5) The costs properly incurred under clause *e* of subsection 1 and under subsections 3 and 4 shall be payable by the city in which the patient was a resident at the time of his arrest. R.S.O. 1937, c. 393, s. 9.

Residents
of Township
of York.

10.—(1) Any person who is a resident of the township of York may be admitted to the Toronto Psychiatric Hospital in the manner prescribed by clauses *a* to *e* of subsection 1 of section 9, and any judge or magistrate having jurisdiction in the township of York shall have authority to issue the order required by clause *e* of subsection 1 of section 9.

When
admission
may be
refused.

(2) The superintendent of the Toronto Psychiatric Hospital or the officer in charge of the admission of patients may refuse the admission of any person under this section when, in his opinion, there is not sufficient accommodation or when, in his opinion, the accommodation is sufficient only to provide for the admission of residents of the city of Toronto.

Application
of certain
provisions.

(3) The provisions of subsection 5 of section 9 and of sections 13, 14 and 20 shall apply to the corporation of the township of York and with respect to patients in the hospital who are residents of the township.

Application
of general
provisions
of Act, etc.

(4) All the provisions of this Act and regulations not inconsistent with this section shall apply to any person admitted under this section. R.S.O. 1937, c. 393, s. 10.

Classifica-
tion of
patients.

11. Patients receiving care and treatment in a psychiatric hospital may be divided into the following classes:

- (a) Outpatients or persons treated outside the limits of a psychiatric hospital or calling within the limits of the hospital for treatment from time to time but not residing therein.
- (b) Inpatients or patients treated and temporarily residing within the limits of the hospital.
- (c) Paying patients or persons whose maintenance is paid in some manner other than by the municipal corporation at the rate of \$1.50 per diem or more.

- (d) Indigent patients or persons whose maintenance is paid at less than \$1.50 per diem. R.S.O. 1937, c. 393, s. 11.

12. The superintendent of a psychiatric hospital shall have authority to transfer any patient to a public hospital for treatment and to again receive the patient into the psychiatric hospital when he has received the treatment, and the charges for the treatment of any such patient in a public hospital shall be paid by the patient unless he is an indigent person, in which case the charges shall be payable in the same manner as charges for an indigent patient are payable under *The Public Hospitals Act*. 1939, c. 36, s. 1.

Patient may be transferred to public hospital for treatment.
Rev. Stat., c. 307.

13. If a patient is unable to pay at the rate of \$1.50 per diem for his maintenance and there is no other person liable for his support who can make such payment, the municipal corporation shall be liable to the hospital at such rate. R.S.O. 1937, c. 393, s. 12.

Liability of municipal corporation.

14. The municipal corporation shall not be liable for any charges for the maintenance, treatment or care of a patient beyond the period of 10 days from the day of the admission of the patient to the psychiatric hospital. R.S.O. 1937, c. 393, s. 13.

When municipal corporation not liable.

15.—(1) No person shall be admitted to a psychiatric hospital who is,

Who may not be admitted.

- (a) certified to be mentally ill, mentally defective or an epileptic within the meaning of *The Mental Hospitals Act*, or within the meaning of sections 25 and 26 of *The Private Sanitaria Act*;
 - (b) an alcoholic habituate;
 - (c) a drug habituate;
 - (d) a person suffering from mental infirmities due to old age or from incurable disease for which general hospital or other institutional care is required;
 - (e) a person suffering from tuberculosis or other communicable disease;
 - (f) a mentally defective or feeble-minded person;
 - (g) an epileptic;
 - (h) a person who has been admitted to and discharged on probation from an institution under *The Mental Hospitals Act*, and whose term of probation has not expired;
- Rev. Stat., cc. 229, 290.

- (i) a person committed to a jail or other penal institution and who has been given a ticket-of-leave, paroled or granted a permit to work outside the limits of such jail or penal institution and whose term of imprisonment has not expired.

Removal of
ineligible
patients.

(2) Where it is found through the result of observation or treatment that a patient admitted to a psychiatric hospital comes within any of the classes mentioned in subsection 1, the inspector, upon the report of the superintendent, may by his warrant direct the removal of the patient to a general hospital or to an institution under *The Mental Hospitals Act*, or into the charge of his friends. R.S.O. 1937, c. 393, s. 14.

Rev. Stat.,
c. 229.

Discharge of
voluntary
patients.

16.—(1) A patient admitted to a psychiatric hospital by voluntary application or upon the certificate of a legally qualified medical practitioner may be discharged by the superintendent when in his opinion the patient is in a fit mental condition to be discharged.

Transfer of
certain
patients.

(2) Where in the opinion of the superintendent a patient is mentally ill, mentally defective or epileptic within the meaning of *The Mental Hospitals Act*, or cannot be further benefited by observation and treatment in the psychiatric hospital, and the patient was admitted as a voluntary patient or upon the certificate of a legally qualified medical practitioner as provided in clauses *a* and *c* of subsection 1 of section 9, the superintendent may cause the patient to be examined by two legally qualified medical practitioners and if the medical practitioners certify, according to section 20 of *The Mental Hospitals Act*, that the patient is mentally ill, mentally defective or epileptic within the meaning of *The Mental Hospitals Act*, the inspector shall issue his warrant for the removal of the patient to an institution under *The Mental Hospitals Act*.

Rev. Stat.,
c. 229.

Patient
admitted
on order.

(3) A patient admitted on an order of the inspector may be discharged by the inspector or by him transferred back to the general hospital from which he was admitted.

Committal
to custody
of friends.

(4) Where a patient has been admitted to a psychiatric hospital by voluntary application or upon the certificate of a legally qualified medical practitioner or on the order of the inspector, in lieu of being discharged he may be committed by the inspector to the custody of relatives or others capable of and legally responsible for the care and supervision of the patient.

Patient
admitted on
warrant.

(5) A patient admitted on the warrant of the Lieutenant-Governor shall not be discharged from a psychiatric hospital without the written consent of the Attorney-General.

(6) If the superintendent considers it conducive to the recovery of any person detained in a psychiatric hospital, except such persons as are admitted under clauses *b* and *e* of subsection 1 of section 9, that he should be committed for a time to the custody of his friends, the superintendent may allow him to return on trial to them upon receiving a written undertaking in the prescribed form by one or more of the friends of such person that he or they will keep an oversight over him.

Delivery of patient to custody of his friends.

(7) If within six months from such temporary discharge the patient again becomes dangerous to be at large, the superintendent by whom he was discharged, by his warrant in the prescribed form directed to any constable or peace officer or other person, or to all constables or peace officers, may authorize and direct that the patient be apprehended and brought back to the psychiatric hospital from which he was temporarily discharged, and the warrant shall be an authority to anyone acting under it to apprehend the person named therein and to bring him back to the psychiatric hospital. R.S.O. 1937, c. 393, s. 15.

Recommitment to hospital from custody of friends.

17. All moneys due to a psychiatric hospital for the maintenance of any patient for the necessary expenses incurred in his behalf shall be a debt due to the Crown and may be sued for and collected by the bursar of the psychiatric hospital or by the inspector from the patient or his estate or from any other person or municipal corporation liable therefor. R.S.O. 1937, c. 393, s. 16.

Collecting maintenance.

18. Upon the admission of any person as a resident patient in a psychiatric hospital the Public Trustee shall be the official committee of the estate of the patient in the same manner and to the same extent as in the case of a patient admitted to an institution under *The Mental Hospitals Act*, unless and until a committee of the estate of the patient has been appointed by the court. R.S.O. 1937, c. 393, s. 17.

Public Trustee as official committee.

Rev. Stat., c. 229.

19. If a patient in a psychiatric hospital, not being a voluntary patient, escapes therefrom or from any officer or servant of the hospital, such officer or servant or any other person may without warrant within 48 hours after the escape, or under a warrant in the prescribed form within three weeks after the escape, retake the escaped patient and return him to the hospital and he shall be detained therein under the authority by virtue of which he was detained prior to his escape. R.S.O. 1937, c. 393, s. 18.

Apprehension of escaped patient.

20. The costs and expenses incurred in conveying a person to and from a psychiatric hospital shall be borne by the

Costs of conveying patients to and from hospital.

person or his estate, except in the case of a person admitted to a psychiatric hospital under clause *b*, *d* or *e* of subsection 1 of section 9 in which case such costs and expenses shall be borne by the municipal corporation subject to such recourse as the corporation may have against the person or any other person. R.S.O. 1937, c. 393, s. 19.

Regulations. **21.** The Minister, with the approval of the Lieutenant-Governor in Council, may make regulations,

- (a) prescribing the forms to be used in carrying out the provisions of this Act;
- (b) for the appointment of officers, servants and employees of a psychiatric hospital and defining their duties and hours of service and regulating their conduct;
- (c) respecting the accommodation, care and treatment of patients admitted to a psychiatric hospital, for regulating the discipline and custody of persons who are admitted as patients in a psychiatric hospital or who are treated therein, and prescribing, subject to the provisions of this Act, the rates to be paid for the accommodation of patients;
- (d) prescribing the books and accounts to be kept in a psychiatric hospital and the manner in which the supplies necessary for the use and maintenance of the hospital and the officers and patients thereof shall be provided and accounted for;
- (e) prescribing penalties for the breach of any regulation;
- (f) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. R.S.O. 1937, c. 393, s. 20.

Post-graduate courses, etc., in psychiatry.

22. The Minister may direct the establishment and maintenance of post-graduate courses and clinical and laboratory research at a psychiatric hospital to be carried on in accordance with any regulations which may be made respecting the same. R.S.O. 1937, c. 393, s. 21.

CHAPTER 302

The Public Accountancy Act**1. In this Act,**Interpre-
tation.

- (a) "Council" means The Public Accountants Council for the Province of Ontario;
- (b) "licensing date" means the 1st day of August, 1950;
- (c) "prescribed" means prescribed by regulations made by the Council under this Act;
- (d) "public accountancy" means the investigation or audit of accounting records or the preparation of or reporting on balance sheets, profit and loss accounts or other financial statements, but does not include bookkeeping or cost accounting or the installation of bookkeeping, business and cost systems;
- (e) "public accountant" means a person who, alone or in partnership with others, carries on the practice of public accountancy and in connection with that practice offers his services for reward to members of the public, but does not include a person by reason of his practising public accountancy in respect of,
 - (i) any public authority or any commission, committee or emanation thereof, including a Crown company,
 - (ii) any bank, loan or trust company,
 - (iii) any transportation company incorporated by Act of the Parliament of Canada, or
 - (iv) any other publicly-owned or publicly-controlled public utility organization;
- (f) "qualifying body" means The Institute of Chartered Accountants of Ontario or The Certified Public Accountants Association of Ontario. 1950, c. 60, s. 1, *amended*.

2. The Public Accountants Council for the Province of Council
Ontario is continued under that name as a body corporate with continued.
power to acquire, hold and dispose of land. 1950, c. 60, s. 2,
amended.

Constitution
of the
Council.

3.—(1) The Council shall consist of 15 members,

- (a) eight of whom shall be appointed by The Institute of Chartered Accountants of Ontario;
- (b) five of whom shall be appointed by The Certified Public Accountants Association of Ontario; and
- (c) two of whom shall be elected in the prescribed manner by vote of the public accountants who are licensed under this Act and are not members of either qualifying body. 1950, c. 60, s. 3 (1).

Qualification
of members.

(2) No person shall be appointed or elected a member of the Council unless he holds a licence under this Act. 1950, c. 60, s. 3 (2), *amended*.

Elected
members.

(3) No person who is a member of either qualifying body shall be elected under clause *c* of subsection 1. 1950, c. 60, s. 3 (3).

Certification
of appoint-
ment;

4.—(1) The secretary of each body by whom a member or members of the Council is or are to be appointed shall certify in writing the name or names of the member or members so appointed.

of election.

(2) The election of a member shall be certified in writing in the prescribed manner.

Certificate
as evidence.

(3) Every such certificate shall for all purposes be sufficient evidence of the appointment or election of the member or members named therein. 1950, c. 60, s. 4.

Exercise of
power of
appoint-
ment.

5. The council or other governing authority of a body may exercise the power of appointment hereby conferred on that body. 1950, c. 60, s. 5.

Term of
office.

6.—(1) Every member of the Council shall hold office for a term of two years from the date of his appointment or election which shall be effective from the first ordinary meeting of the Council held in the term for which he was appointed or elected. 1950, c. 60, s. 6 (1), *amended*.

Idem.

(2) Every member shall hold office until his successor is appointed or elected.

Re-appoint-
ment and re-
election.

(3) A retiring member of the Council shall be eligible for re-appointment or re-election.

Vacancies.

(4) Any vacancy in the office of a member of the Council shall be filled for the remainder of the term by the body which appointed him or by an election in the manner prescribed in clause *c* of subsection 1 of section 3, as the case requires.

(5) The Council may act notwithstanding a vacancy in its number occurring from any cause. 1950, c. 60, s. 6 (2-5). Effect of vacancy.

7.—(1) A member of the Council may at any time resign his office by giving notice to the Council. Resignation of member.

(2) The Council may of its own motion and shall, in the case of an appointed member if so requested by the body by which the member was appointed, remove a member from his office for any prescribed cause. 1950, c. 60, s. 7. Removal of member.

8. It shall be the duty of the Council to administer the provisions of this Act and in particular, but without limiting the generality of the foregoing, the functions of the Council shall include, Functions of Council.

- (a) the grant or refusal of licences, in accordance with this Act;
- (b) the maintenance and, if thought fit, the publication of a roll of the persons for the time being licensed under this Act;
- (c) the prescription of the fees payable on the grant or renewal of licences under this Act;
- (d) the maintenance and improvement of the status and standards of professional qualifications of public accountants practising as such in Ontario;
- (e) the consideration of matters of common interest and concern to public accountants, and the submission of representations to any government department or public authority with reference to any such matters;
- (f) the provision of scholarships for students in public accountancy and of maintenance grants for such students whose means appear to the Council to be insufficient to enable them to pursue their studies;
- (g) the conduct and encouragement, whether by means of financial assistance or otherwise, of research in accountancy;
- (h) the exercise of the disciplinary powers conferred by this Act; and
- (i) the prosecution of offences under this Act. 1950, c. 60, s. 8.

9.—(1) The Council shall meet at such times and places as it may from time to time determine; provided that the Meetings of the Council.

Council shall hold at least one meeting in every period of three months to consider and determine applications for licences under this Act.

Extra-ordinary meetings.

(2) The president of the Council may at any time convene an extraordinary meeting of the Council at such time and place as he may, by notice to the members of the Council, direct, and the conditions as to giving such notice shall be as may be prescribed. 1950, c. 60, s. 10.

Voting at meetings of the Council.

10.—(1) Except as otherwise expressly provided by this section, all matters which arise for decision at any meeting of the Council shall be decided by a majority of votes of members present and voting by show of hands.

Assent required for certain resolutions.

(2) No resolution of the Council relating to,

- (a) any of the functions of the Council referred to in clause *h* or *i* of section 8;
- (b) the making of regulations under section 32;
- (c) the revocation or non-renewal of a licence granted under this Act; or
- (d) the granting of an exemption to any person pursuant to subsection 2 of section 15 from any of the conditions of section 15, or the approval of conditions subject to which such exemption shall be granted,

shall be valid unless approved by the votes of at least three-quarters of the members of the Council present and voting thereon.

Notice.

(3) No resolution of the Council relating to any of the matters mentioned in subsection 2 shall be valid unless the notice calling the meeting at which the resolution is moved has specified the general nature of the business to be transacted thereat. 1950, c. 60, s. 11.

Officers.

11.—(1) The officers to be elected from among the members of the Council shall be a president, a vice-president, a secretary and such other officers as the Council may deem necessary.

Election of officers.

(2) The election of officers shall take place annually at the first ordinary meeting of the Council in each calendar year when all officers then in office shall retire but if otherwise qualified shall be eligible for re-election; and in the event of a tie vote for the election of the president or vice-president, the issue shall be decided by lot. 1950, c. 60, s. 12 (1, 2).

Term of office.

(3) Subject to the provisions of this section, any officer elected by the Council shall continue in office for a term of one

year and until his successor is elected. 1950, c. 60, s. 12 (3), *amended*.

(4) Every vacancy occurring in any office by reason of the ^{vacancies.} incumbent dying, resigning or otherwise ceasing to be a member of the Council during his term of office, shall be filled for the remainder of his term by the Council from among its members. 1950, c. 60, s. 12 (4).

12. At all meetings of the Council eight members shall ^{Quorum} constitute a quorum. 1950, c. 60, s. 13.

13.—(1) The Council may from time to time appoint ^{Committees.} committees from among its members.

(2) The Council may delegate to any such committee, ^{Delegation to} subject to such restrictions or conditions as the Council may ^{committees.} think fit, any of its power or duties, other than those referred to in subsection 2 of section 10, and may dissolve any such committee. 1950, c. 60, s. 14.

14.—(1) The Council shall maintain a roll to be called ^{Roll of public} "The Roll of Public Accountants in Ontario". 1950, c. 60, ^{accountants.} s. 15 (1), *amended*.

(2) The Council shall from time to time cause to be entered ^{Entries on} on the roll the name and address of every person licensed under ^{and erasures} this Act and shall cause to be removed therefrom, ^{from roll.}

(a) the name of every person licensed under this Act who has made application to the Council in the prescribed manner requesting the Council to remove his name from the roll; and

(b) the name of every person whose licence under this Act has been revoked or has not been renewed in accordance with this Act,

and shall cause any other necessary alterations or corrections to be made therein. 1950, c. 60, s. 15 (2).

15.—(1) Any person shall, on application to the Council ^{Qualifica-} in the prescribed manner and upon payment of the prescribed ^{tions for} fee, be entitled to be licensed under this Act if the Council is ^{licence.} satisfied,

(a) that on the licensing date the applicant was a member of a qualifying body; or

(b) that on the licensing date the applicant was carrying on the practice of public accountancy and in that connection maintained in Ontario, either alone or in

partnership with others, a place of business at which his services as a public accountant could be engaged, and was of good repute and had been in practice as a public accountant for one year before the licensing date; or

- (c) that the applicant is a member of a qualifying body, having taken the regular courses and passed the final examinations of such body or of a body recognized by it for purposes of affiliation; or
- (d) that the applicant has passed an examination deemed by the Council to be not less than equivalent to the intermediate examination of a qualifying body and has practised or been employed in public accountancy in Ontario for a period of not less than three years.

Exemption
from
conditions.

(2) The Council may, in special circumstances and subject to subsections 2 and 3 of section 10, either unconditionally or subject to such conditions as it may think fit, exempt any person from one or more of the conditions set forth in subsection 1.

Licensees
from other
jurisdictions.

(3) The Council may by regulation prescribe the terms and conditions upon which any licensee of a state or province other than Ontario may be exempted from one or more of the conditions set forth in subsection 1, but no such regulation shall be made, amended or repealed unless approved by the votes of at least two-thirds of the members of the Council present and voting thereon. 1950, c. 60, s. 16.

Period of
licence.

16. Every licence granted or renewed under this Act shall become effective on and shall bear the date as of which it is granted or renewed and, unless revoked, shall remain in force until the date prescribed by the Council. 1950, c. 60, s. 17.

Renewal of
licence.

17. Any person who is, and is entitled to be, licensed under this Act and who applies to the Council in the prescribed manner and pays the prescribed fee shall be entitled to have his licence renewed, but nothing in this section shall prejudice or affect the power of the Council to revoke any licence in accordance with this Act. 1950, c. 60, s. 18.

Fees.

18.—(1) The fee payable for the grant or renewal of a licence shall not exceed \$25.

Recovery
of fees.

(2) The Council may sue for and recover any unpaid fees in any court of competent jurisdiction. 1950, c. 60, s. 19.

19.—(1) If a person licensed under this Act,

Powers as to
revocation
of licence.

- (a) has been convicted of a criminal offence;
- (b) becomes of unsound mind;
- (c) has been adjudged bankrupt or has made arrangement with his creditors; or
- (d) has been found on inquiry held by the Council to be guilty of conduct disgraceful to him in his capacity as a public accountant,

the Council may, subject to the provisions of this section, revoke his licence.

(2) Where the Council intends to revoke any licence in pursuance of clause *a*, *b* or *c* of subsection 1, the Council shall first cause a written notice of its intention to be served on such person in the prescribed manner and shall on application made by such person within one month from the date of the service of the notice consider any representations with regard to the matter which may be made by him to the Council, either in person or by counsel.

Notice of
intention
to revoke
and hearing.

(3) In any case in which it appears to the Council that a person licensed under this Act has been guilty of conduct disgraceful to him in his capacity as a public accountant, the Council may cause an inquiry to be held.

Inquiry.

(4) Where an inquiry is to be held under this section, the Council shall forthwith cause to be served on the person concerned a written notice of the proposed inquiry specifying the time and place at which it is to be held and the subject matter thereof, and the person concerned shall on application be entitled to be heard at the inquiry either in person or by counsel. 1950, c. 60, s. 20.

Notice of
inquiry.

20. Where the Council refuses the application of any person for the grant or renewal of a licence, or revokes any licence granted to any person, it shall forthwith cause written notice of such refusal or revocation to be served on such person. 1950, c. 60, s. 21.

Notice of
refusal or
revocation
of licence.

21.—(1) No person whose licence has been revoked shall, except as provided in this section, be granted a licence under this Act.

Effect of
revocation.

(2) A person whose licence has been revoked may, either on his application or on motion of the Council and after inquiry, be granted a new licence and his name may be restored to the roll at the discretion of the Council either without payment of a fee or on payment of such fee as the Council may determine. 1950, c. 60, s. 22.

New licence
after
revocation.

Appeal.

22. Where the Council,

- (a) refuses to grant a licence or a new licence;
- (b) refuses to renew a licence; or
- (c) revokes a licence,

the person aggrieved may, within three months from the day on which notice thereof was served on him, apply to a judge of the Supreme Court who upon due cause shown may make an order directing the Council to grant the licence, renew the licence or cancel the revocation of the licence, as the case may be, or may make such other order as may be warranted by the facts, and the Council shall forthwith comply with such order and such order shall be final. 1950, c. 60, s. 23.

Obtaining
licence by
false repre-
sentation.

23. If any person wilfully procures, or attempts to procure, the granting to him of a licence under this Act, or the renewal of such licence, by making or producing, or causing to be made or produced, any false or fraudulent representation or declaration, either orally or in writing, he shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$100 and not more than \$250. 1950, c. 60, s. 24.

Failure to
surrender
licence.

24.—(1) If any person ceases to be licensed under this Act, he shall, within 14 days thereafter, transmit his licence to the Council for cancellation, and, if he fails to do so, he shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$10 and not more than \$25, and to a further penalty of not less than \$3 and not more than \$5 for every day on which the offence continues after conviction.

Abuse of
licence.

(2) Any person who,

- (a) uses a licence issued under this Act to another person; or
- (b) allows a licence issued to him under this Act to be used by any other person; or
- (c) not being licensed under this Act, uses or has in his possession any document purporting to be a licence issued to him under this Act,

shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$50 and not more than \$100 and, in the case of a continuing offence, to a further penalty of not less than \$15 and not more than \$25 for every day on which the offence continues after conviction. 1950, c. 60, s. 25.

25.—(1) Subject to the provisions of this section, no person who is not licensed under this Act shall, within Ontario,

Restriction
on use of
title or
carrying on
business
of public
accountant.

(a) take or use the name or title of "Public Accountant";

(b) practise as a public accountant; or

(c) hold himself out as being licensed as a public accountant or use any designation or initials indicating or implying that he is licensed as a public accountant.
1950, c. 60, s. 26 (1), *amended*.

(2) Notwithstanding anything in this section, the Council may permit any person who is a non-resident of Ontario to practise as a public accountant within Ontario without a licence under this Act, subject to any terms and conditions that may from time to time be prescribed.

Permission
for
non-resident
to practise.

(3) Any person contravening the provisions of this section shall, without prejudice to any other proceedings which may be taken, be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$100 and not more than \$250 for first offence and to a penalty of not less than \$200 and not more than \$500 for any subsequent offence.

Penalties.

(4) Where a contravention of this section by any person is occasioned by the fact that his licence has been revoked, it shall be a good defence to any proceedings in respect of such contravention to prove that, at the time when such contravention is alleged to have been committed, notice of the revocation had not been served in accordance with this Act or the regulations hereunder, or that the time for appealing from the revocation had not expired or an appeal therefrom had been brought and had not been determined. 1950, c. 60, s. 26 (2-4).

Defence.

26.—(1) It shall not be lawful for a body corporate to practise as a public accountant and any body corporate contravening the provisions of this subsection shall, without prejudice to any other proceedings which may be taken, be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$100 and not more than \$250 for a first offence and to a penalty of not less than \$200 and not more than \$500 for any subsequent offence. 1950, c. 60, s. 27 (1), *amended*.

Prohibition
against a
body
corporate
carrying on
business
as public
accountant.

(2) If a corporate body is guilty of an offence under subsection 1, every director or officer of the body corporate who consented to, or connived at or was responsible for the commission of the offence, shall be deemed to be a party to and guilty of the offence and shall be liable to be proceeded against and fined accordingly. 1950, c. 60, s. 27 (2).

Liability
of directors
and officers.

No costs,
etc.,
recoverable
by
unlicensed
person.

27. After the licensing date no person shall be entitled to recover any costs incurred or charges made as a public accountant after that date unless such person was licensed under this Act at the time when such costs were incurred or when the services were rendered in respect of which such charges were made. 1950, c. 60, s. 28.

Finances.

28.—(1) The Council shall maintain a fund into which all moneys received by the Council shall be paid and out of which shall be paid all administrative and establishment expenses of the Council and all expenses incurred by the Council in carrying out its functions under this Act and all other liabilities properly incurred by the Council. 1950, c. 60, s. 29 (1), *amended*.

Management
of fund.

(2) The Council shall manage, administer and keep proper accounts of the fund.

Investment
of moneys.

(3) The Council may invest any moneys standing to the credit of the fund in any security in which trustees are authorized to invest.

Borrowing
powers.

(4) The Council may from time to time borrow any moneys required for the purposes of the Council and may mortgage, hypothecate, charge or pledge any or all of its property and assets to secure the amount so borrowed. 1950, c. 60, s. 29 (2-4).

Payment of
expenses,
salaries and
pensions.

29.—(1) The Council shall pay,

(a) to the members of the Council such allowances for travelling and subsistence expenses incurred in the discharge of their functions; and

(b) to the secretary and any other officers and employees of the Council such salaries and remuneration and on retirement or death, such pensions and gratuities,

as the Council may determine.

Dependants
of
employees.

(2) The Council may make provision for the dependants of any of its employees. 1950, c. 60, s. 30.

Audit of
accounts.

30. The accounts of the Council and of its officers and of any committee appointed by the Council shall be audited annually by a person licensed under this Act and appointed annually by the Council; provided that a member of the Council or a person who is in partnership with such a member shall not be eligible for appointment as auditor under this section. 1950, c. 60, s. 31, *amended*.

Accounts to
be furnished
to qualifying
bodies, etc.

31.—(1) Within three months after the end of each financial year the Council shall forward a copy of the audited accounts of the Council for that year to each qualifying body and to the Provincial Secretary.

(2) Any person licensed under this Act shall be entitled ^{Copies.} upon demand to receive a copy of the audited accounts. 1950, c. 60, s. 32.

32.—(1) Subject to the provisions of this Act, the Council shall or may, as the case may be, prescribe by regulation ^{Regulations, etc.} anything which is by this Act required or authorized to be prescribed and may make such further provisions as may seem to the Council necessary or desirable for carrying out or facilitating any of the purposes of this Act.

(2) The Council shall on receipt of the prescribed charges ^{Copies.} supply a copy of any regulations made under this Act and of any forms prescribed by such regulations to any person applying therefor.

(3) The Lieutenant-Governor in Council may annul any ^{Annulment.} regulation made by the Council under this Act. 1950, c. 60, s. 33.

33. Every regulation, licence, notice or other document made, granted or issued by the Council for any purpose <sup>Authen-
tication of
regulations
and other
documents.</sup> whatsoever may be signed on behalf of the Council by the secretary or by such other officer of the Council as may from time to time be authorized by the Council so to do, and when so signed shall be *prima facie* evidence of such regulation, licence, notice or other document. 1950, c. 60, s. 34.

34.—(1) Any notice or document required to be given by <sup>Service of
documents.</sup> or for the purposes of this Act may be sent by prepaid post and when so sent shall be deemed to be properly addressed if addressed to the person or body for whom intended at the last address of such person or body appearing in the roll or records of the Council.

(2) Any notice relating to, Idem.

(a) the refusal to grant or renew a licence;

(b) the revocation of a licence; or

(c) the removal of the name of any person from the roll,

shall be sent by registered post. 1950, c. 60, s. 35.

35. Nothing in this Act shall preclude a registered member ^{Saving.} of the Society of Industrial and Cost Accountants of Ontario, or any other person, from practising as an industrial accountant, cost accountant or cost consultant, and from designating himself as such. 1950, c. 60, s. 36.

Freedom
from action.

36. No action shall be brought against the Council or any member or former member thereof that is based on the refusal of the Council to grant or renew a licence or that is based on the revocation by the Council of a licence. 1950, c. 60, s. 37.

CHAPTER 303

The Public Authorities Protection Act

1. In this Act, "justice of the peace" includes a magis-^{Interpreta-}trate, a person who is *ex officio* a justice of the peace, and a person who has by law the powers of a justice of the peace, either generally or with regard to any particular matter, and any other person authorized to hear and determine any argument or to try any offence. R.S.O. 1937, c. 135, s. 1.

2. No action shall lie or be instituted against a justice of the peace for any act done by him in the execution of his duty as such justice with respect to any matter within his jurisdiction as such justice, unless the act was done maliciously and without reasonable and probable cause. R.S.O. 1937, c. 135, s. 2.

3.—(1) For any act done by a justice of the peace in a matter in which by law he has not jurisdiction, or in which he has exceeded his jurisdiction, or for any act done under a conviction or order made or a warrant issued by him in such matter, any person injured thereby may maintain an action against the justice in the same case as he might have heretofore done, and it shall not be necessary to allege or prove that the act was done maliciously and without reasonable and probable cause.

(2) Where a conviction or order has been made by a justice of the peace, and a warrant of distress or of commitment has been issued thereon by some other justice of the peace, *bona fide* and without collusion, no action shall be brought against the justice who issued the warrant by reason of any defect in the conviction or order, or for any want of jurisdiction in the justice who made the same, but the action, if any, shall be brought against the justice who made the conviction or order.

(3) No such action as is mentioned in this section shall be brought for anything done under a conviction or order or under a warrant issued by a justice of the peace to procure the appearance of the party, which has been followed by a conviction or order in the same matter, until the conviction or order has been quashed.

(4) Where such warrant has not been followed by a conviction or order, or is a warrant upon an information for an indictable offence, if a summons was issued previously to the

warrant, and the summons was served upon such party, either personally or by leaving the same for him with some person at his last or usual place or abode, and he did not appear according to the exigency of the summons, no such action shall be maintained against the justice for anything done under the warrant.

Nor when
order of
protection
made.

(5) Notwithstanding this section, no action shall lie when an order has been made under section 7 for the protection of the justice. R.S.O. 1937, c. 135, s. 3.

Where
acting under
order of
the court.

4. Where a justice of the peace refuses to do any act relating to the duties of his office as such justice, the person requiring the act to be done may, upon affidavit stating the facts, and upon six days notice to him, and also to the party to be affected by the act, apply to a judge of the Supreme Court, or to the judge of the county or district court of the county or district in which the justice resides, for an order directing the act to be done. R.S.O. 1937, c. 135, s. 4.

Where con-
viction, etc.,
confirmed
on appeal.

5. Where a justice of the peace has issued a warrant of distress or a warrant of commitment upon a conviction or order which either before or after the issuing of the warrant has been confirmed upon appeal, no action shall be brought against such justice by reason of any defect in the conviction or order or for anything done under the warrant. R.S.O. 1937, c. 135, s. 5.

Where
protection
may be
claimed
notwith-
standing
defects in
proceedings.

6.—(1) No defect in an information taken before or in a warrant issued by a justice of the peace shall prevent him from claiming the benefit and protection of this Act if the court is of opinion that he acted in good faith, and that the informant or complainant intended, by the facts stated to the justice, to charge the commission of an offence which, if the same had been set forth in proper form in the information or warrant, would have been one within the jurisdiction of the justice, and in such case the informant or complainant shall be liable as if the information had charged in proper form the commission of the offence so intended to be charged.

Non-liability
of informant
where
offence not
properly
described.

(2) An action shall not be brought against a person who has in good faith laid an information before a justice of the peace or by reason of the information not containing a proper description of the offence or being otherwise defective. R.S.O. 1937, c. 135, s. 6.

Conditions
on quashing
convictions.

7.—(1) Where an order is made quashing a summary conviction, the court may provide that no action shall be brought against the justice of the peace who made the conviction or against the informant or any officer acting thereunder or under any warrant issued to enforce the conviction or order.

(2) Such an order may be made conditional upon payment of the costs of the motion to quash or upon such other condition as may be deemed proper. R.S.O. 1937, c. 135, s. 7.

Order may be made conditional.

8. If an action is brought where by this Act it is enacted that no action shall be brought, it may be stayed upon a summary application. R.S.O. 1937, c. 135, s. 8.

When action may be stayed upon summary application.

9. Where the plaintiff is entitled to recover, and he proves the levying or payment of any penalty or sum of money under any conviction or order as part of the damages he seeks to recover, or if he proves that he was imprisoned under the conviction or order, and seeks to recover damages for the imprisonment, he shall not be entitled to recover the amount of the penalty or sum so levied or paid, or any sum beyond the sum of three cents as damages for the imprisonment, or any costs of suit, if it is proved that he was actually guilty of the offence of which he was convicted, or that he was liable by law to pay the sum he was so ordered to pay, and, with respect to the imprisonment, that he has undergone no greater punishment than that assigned by law for the offence of which he was so convicted, or for non-payment of the sum he was so ordered to pay. R.S.O. 1937, c. 135, s. 9.

Damages nominal in certain cases.

10.—(1) No action shall be brought against a constable, division court bailiff or other officer, or against any person acting by his order and in his aid, for anything done in obedience to a warrant issued by a justice of the peace or clerk of a division court until demand has been made or left at his usual place of abode by the person intending to bring such action or by his solicitor or agent in writing, signed by the person demanding the same, for the perusal and copy of the warrant and the same has been refused and neglected for six days after such demand.

Actions against constable, division court bailiff or other officer.

(2) If, after such demand and compliance therewith by showing the warrant to and permitting a copy thereof to be taken by the person demanding the same, an action is brought against such constable, bailiff or officer, or such person so acting, for any cause without making the justice or clerk who issued the warrant a defendant, on the production and proof of the warrant at the trial of the action judgment shall be given for the defendant notwithstanding any defect of jurisdiction in the justice or clerk.

Dismissal of action.

(3) If the action is brought jointly against such justice or clerk and such constable or bailiff or other officer or person so acting, on proof of such warrant, judgment shall be given for the constable or bailiff or other officer and for the person so acting notwithstanding the defect in jurisdiction.

Action brought jointly against justice or clerk and constable or bailiff.

Costs.

(4) If the judgment is given against the justice or clerk the plaintiff shall, in addition to any costs awarded to him, be entitled to recover such costs as he is liable to pay to the defendant for whom judgment is given. R.S.O. 1937, c. 135, s. 10.

Action for act done under public authority to be begun within six months.

11. No action, prosecution or other proceeding shall lie or be instituted against any person for an act done in pursuance or execution or intended execution of any statutory or other public duty or authority, or in respect of any alleged neglect or default in the execution of any such duty or authority, unless it is commenced within six months next after the act, neglect or default complained of, or, in case of continuance of injury or damage, within six months after the ceasing thereof. R.S.O. 1937, c. 135, s. 11.

Persons obeying mandamus protected.

12. No action or other proceeding shall be commenced or prosecuted against any person for or by reason of anything done in obedience to a mandamus or mandatory order. R.S.O. 1937, c. 135, s. 12.

Protection of those acting under *ultra vires* statutes.

13. No action shall be brought against a judge, justice of the peace, or officer for anything done by him under the supposed authority of a statute of Ontario or of Canada which was beyond the legislative jurisdiction of the Legislature or of the Parliament of Canada, as the case may be, if the action would not lie against him had the statute been within the legislative jurisdiction of the Legislature or Parliament which assumed to enact it. R.S.O. 1937, c. 135, s. 13.

Applications for security for costs.

14. Where an action is brought against a justice of the peace or against any person for any act done in pursuance or execution or intended execution of any public duty, statutory or otherwise, or authority, or in respect of any alleged neglect or default in the execution of any such statute, duty or authority, the defendant may at any time after the service of the writ apply for security for costs if it is shown that the plaintiff is not possessed of property sufficient to answer the costs of the action in case a judgment is given in favour of the defendant, and that the defendant has a good defence upon the merits, or that the grounds of action are trivial or frivolous. R.S.O. 1937, c. 135, s. 14.

Application of Act.

15. This Act shall not apply to a municipal corporation. R.S.O. 1937, c. 135, s. 15.

Application of Act to sheriffs and their officers.

16. A sheriff or his officer acting under a writ of execution or other process shall be deemed to be a person acting in the discharge of a public duty or authority within the meaning of this Act. R.S.O. 1937, c. 135, s. 16.

CHAPTER 304

The Public Commercial Vehicles Act

1. In this Act,

Interpre-
tation.

- (a) "Board" means Ontario Municipal Board;
- (b) "compensation" includes any rate, remuneration, reimbursement or reward of any kind paid, payable or promised, or received or demanded, directly or indirectly;
- (c) "Department" means Department of Highways;
- (d) "goods" includes all classes of materials, wares and merchandise, live stock and milk;
- (e) "highway" means highway as defined in *The Highway Traffic Act*; Rev. Stat.,
c. 167.
- (f) "Minister" means Minister of Highways;
- (g) "owner" means a person registered under *The Highway Traffic Act* as the owner of a motor vehicle;
- (h) "operating licence" means public commercial vehicle operating licence issued under this Act;
- (i) "public commercial vehicle" means a commercial motor vehicle or trailer as defined in *The Highway Traffic Act*, operated on a highway by, for, or on behalf of any person for the transportation for compensation of goods and not confined in its operation to any urban zone, but does not include a commercial motor vehicle or trailer used only for the transportation from a farm or forest of goods other than live stock and milk which are the product of such farm or forest;
- (j) "regulations" means regulations made under this Act;
- (k) "toll" means any fee or rate charged, levied or collected for the transportation of goods or for use of a public commercial vehicle;
- (l) "transportation" with respect to goods means the transportation, carriage, shipment, care, handling, storage or delivery thereof;

(m) "urban zone" means an area consisting of one urban municipality and lands adjacent thereto and within a distance of three miles therefrom;

(n) "vehicle licence" means public commercial vehicle licence issued under this Act. 1949, c. 79, s. 1.

Operating
licence
required.

2.—(1) No person shall conduct upon a highway by means of a public commercial vehicle the business of transportation of goods except under an operating licence.

Vehicle
licence
required.

(2) No person shall operate a public commercial vehicle unless the vehicle is licensed as a public commercial vehicle under this Act.

Advertising
by
unlicensed
persons.

(3) No person shall solicit by means of advertising, or otherwise undertake to arrange the transportation of goods by means of a vehicle operated on a highway by, for, or on behalf of any person who receives compensation, either directly or indirectly, for such transportation, unless the person by, for, or on behalf of whom the vehicle is operated is licensed under this Act. 1949, c. 79, s. 2.

Agents.

3.—(1) No person other than a duly authorized agent of an owner of a public commercial vehicle shall carry on the business of an agent for the transportation of goods upon the highways.

Agency
authority.

(2) A duly authorized agent of an owner of a public commercial vehicle shall be appointed in writing and such appointment shall be signed by the owner and shall at all times be kept posted up and displayed in a conspicuous place on the premises at which the agent conducts the agency business. 1949, c. 79, s. 3.

Approval
of Board.

4.—(1) No operating licence shall be issued without the approval of the Board being first obtained as evidenced by the Board's certificate of public necessity and convenience furnished to the Minister, and then only in accordance with the certificate.

Renewal
of licence.

(2) The approval of the Board to a renewal of a licence shall not be required unless the Minister refers the application for renewal to the Board.

Transfer of
licence.

(3) The Minister may refer any application for the transfer of an operating licence to the Board.

Alteration
of licence.

(4) The Minister may at any time refer an operating licence to the Board with a recommendation that the terms and conditions of the licence be reviewed.

(5) On any application or reference to the Board, the Board shall have and may exercise all powers necessary for the purposes of this Act, and may give such certificate and make such order as it deems just. 1949, c. 79, s. 4.

Powers of Board.

5. Operating and vehicle licences shall be issued by the Minister and shall be subject to the regulations and the terms and conditions in the licence. 1949, c. 79, s. 5.

Issue of licences.

6. An operating licence may confer special or limited rights with respect to the operation of public commercial vehicles and with respect to any highway or highways or portions thereof described in the licence. 1949, c. 79, s. 6.

Rights limited by licence.

7.—(1) A vehicle licence may fix the tonnage that the vehicle may carry, and no vehicle shall at any time carry more tonnage than is fixed by the licence.

Tonnage.

(2) Every public commercial vehicle shall, while operated on a highway, have attached thereto and exposed in a conspicuous position a licence plate issued by the Minister showing in plain figures the number of the vehicle licence issued for the vehicle for the current year. 1949, c. 79, s. 7.

Licence plate to be plainly exposed.

8. The Minister may at any time cancel or suspend any licence by reason of a breach of this Act or *The Highway Traffic Act* or of the regulations hereunder or thereunder, or for any reason set out in the regulations. 1949, c. 79, s. 8.

Cancellation and suspension of licences. Rev. Stat., c. 167.

9. No operating licence shall be transferred except with the written approval of the Minister. 1949, c. 79, s. 9.

Transfer of licences.

10. Every person licensed under this Act shall provide or effect and carry such insurance or bond as is prescribed by the regulations. 1949, c. 79, s. 10.

Insurance.

11.—(1) Every insurer who has issued a policy of insurance in accordance with section 10 shall issue a certificate thereof which shall be filed with the Minister.

Certificate of insurance.

(2) Such certificate shall be deemed to be a conclusive admission by the insurer that the policy has been issued and is in accordance with the terms of the certificate.

Effect of certificate.

(3) Every insurer shall notify the Minister in writing of the cancellation or expiry of any policy for which a certificate has been issued, at least 30 days before the effective date of the cancellation or expiry, and in the absence of such notice of cancellation or expiry the policy shall remain in full force and effect. 1949, c. 79, s. 11.

Notice of cancellation or expiry of insurance.

Cancellation
or expiry
of bond.

12. A bond issued in accordance with section 10 shall not be cancelled or expire except after 30 days written notice to the Minister, but not after the happening of an injury or damage secured by the bond as to such accident, injury or damage, and the bond shall be filed with the Minister. 1949, c. 79, s. 12.

Offences and
penalties.

13.—(1) Every person who contravenes any of the provisions of this Act or the regulations shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$20 and not more than \$200. 1949, c. 79, s. 13 (1, 3).

Disposition
of penalties.

(2) Every money penalty so imposed shall be paid over to the Treasurer of Ontario and shall form part of the Consolidated Revenue Fund. 1949, c. 79, s. 13 (2).

Consent to
prosecutions.

14. No prosecution shall be instituted under this Act without the consent of a member of the Ontario Provincial Police Force or of an officer of the Department designated by the Minister to assist in the enforcement of this Act. 1949, c. 79, s. 14.

Regulations.

15. The Lieutenant-Governor in Council may make regulations,

- (a) governing the issue, renewal, transfer, suspension and cancellation of licences and classes of licences;
- (b) prescribing fees and the basis for computing fees, and respecting payment thereof;
- (c) prescribing terms and conditions to which licences shall be subject;
- (d) fixing the form, amount, nature, class, terms and conditions of insurance or bond that shall be provided and carried by persons licensed under this Act;
- (e) prescribing the terms and conditions of cancellation, expiry, renewal, extension and notice of cancellation respecting such insurance or bonds;
- (f) governing the filing of bonds and certificates of insurance;
- (g) respecting the publication, filing and posting of tariffs of tolls, and the payment of tolls;
- (h) providing for the examination of public commercial vehicles, their contents and equipment by officers of the Department and members of the Ontario Provincial Police Force;

- (i) prescribing, regulating and limiting the hours of labour of drivers of public commercial vehicles;
 - (j) prescribing the qualifications of drivers of public commercial vehicles;
 - (k) prescribing equipment to be carried by public commercial vehicles and the condition and location in which the equipment shall be kept;
 - (l) prescribing the method of bookkeeping or accounting to be used and the returns or statements to be filed, and providing for the examination by officers of the Department of all books, records and documents;
 - (m) prescribing the method of handling cash on delivery shipments and the collection and remittance of cash on delivery funds;
 - (n) prescribing the form of bill of lading to be used;
 - (o) providing for the delegation to an officer of the Department of such of the powers and duties of the Minister as may be deemed necessary;
 - (p) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act. 1949, c. 79, s. 15.
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CHAPTER 305

The Public Halls Act

1. In this Act,

Interpreta-
tion.

- (a) "owner" means person who has in respect of premises an estate for life or a greater estate, legal or equitable, or a leasehold estate;
- (b) "public hall" means premises offered for use or used as a place of public assembly where the premises are offered for hire or hired for the purpose of an assembly or where a fee is charged or a collection made for entrance, entertainment or otherwise, but does not include premises used solely for religious purposes nor a theatre within the meaning of *The Theatres and Cinematographs Act*.

Rev. Stat.,
c. 389.

2. No premises shall be offered for use or used as a public hall unless the owner thereof holds a licence therefor from the municipality in which the premises are situate.

Licence
required.

3. Any owner who contravenes section 2 shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$50 and not more than \$500 and in default of payment of the penalty imposed or in addition to such penalty, to imprisonment for a term of not more than six months.

Penalty.

CHAPTER 306

The Public Health Act

1. In this Act,

Interpre-
tation.

- (a) "communicable disease" means any contagious or infectious disease, and includes smallpox, chickenpox, diphtheria, scarlet fever, typhoid fever, measles, German measles, glanders, cholera, erysipelas, tuberculosis, mumps, anthrax, bubonic plague, rabies, poliomyelitis and cerebro-spinal meningitis, and any other disease which may be declared by the regulations to be a communicable disease;
- (b) "Department" means Department of Health;
- (c) "Deputy Minister" means Deputy Minister of Health; R.S.O. 1937, c. 299, s. 1, cls. (a-c).
- (d) "extermination" means the use of any prescribed insecticide, rodenticide or any other prescribed substance used for the destruction or control of insects, vermin, rodents or other pests;
- (e) "exterminator" means any person who by himself or his associates, employees, servants, assistants or agents carries on the business or occupation of extermination in premises; 1950, c. 61, s. 1 (1).
- (f) "food and dairy inspector" means a food and dairy inspector appointed under this Act; 1941, c. 45, s. 1.
- (g) "fumigation" means fumigation by the use of hydrocyanic acid, cyanide compounds, methyl bromide, chloropicrin or any other substance prescribed by the regulations; R.S.O. 1937, c. 299, s. 1, cl. (d); 1950, c. 61, s. 1 (2).
- (h) "fumigator" means any person who by himself or his associates, employees, servants, assistants or agents carries on the business or occupation of the fumigation of premises; R.S.O. 1937, c. 299, s. 1, cl. (e).
- (i) "health unit" means a health unit established under this Act; 1944, c. 48, s. 1 (1).

- (j) "house" or "household" includes a dwelling house, lodging house, or hotel, and a students' residence, fraternity house, or other building in which any person in attendance as a student, pupil or teacher, or employed in any capacity in or about a university, college, school or other institution of learning resides or is lodged;
- (k) "householder" includes the proprietor, master, mistress, manager, housekeeper, janitor, and caretaker of a house;
- (l) "local board" means the local board of health for any municipality or of a health unit; R.S.O. 1937, c. 299, s. 1, cls. (g-i).
- (m) "medical and dental inspection" means medical and dental inspection and dental treatment; 1944, c. 48, s. 1 (2).
- (n) "medical officer of health" means the medical officer of health of the municipality or of a health unit appointed under this Act, or in unorganized territory a medical officer of health appointed by the Department for a specified area; R.S.O. 1937, c. 299, s. 1, cl. (j); 1940, c. 22, s. 1.
- (o) "member of a household" means a person residing, boarding or lodging in a house; R.S.O. 1937, c. 299, s. 1, cl. (k).
- (p) "milk" includes whole milk and such products of milk as are supplied, processed, distributed or sold in any form other than butter or cheese; 1938, c. 30, s. 2, *part.*
- (q) "Minister" means Minister of Health;
- (r) "municipality" does not include a county;
- (s) "occupier" means the person in occupation or having the charge, management or control of any premises, whether on his own account or as the agent of any person;
- (t) "owner" means the person for the time being receiving the rent of the land or premises in connection with which the word is used whether on his own account or as agent or trustee of any other person or who would so receive the same if such land or premises were let; R.S.O. 1937, c. 299, s. 1, cls. (l-o).
- (u) "pasteurization" means the process of heating every particle of milk to a temperature of not less than

143 degrees Fahrenheit, of holding it at such temperature for not less than 30 minutes, or such other temperature and time as may be set by the Lieutenant-Governor in Council, and of cooling it immediately thereafter to 50 degrees Fahrenheit or lower, and "pasteurized" has a corresponding meaning; 1938, c. 30, s. 2, *part*; 1942, c. 31, s. 1.

- (v) "premises" means any land or any building, public or private, sailing, steam or other vessel, any vehicle, steam, electric or street railway car for the conveyance of passengers or freight, any tent, van, or other structure of any kind, any mine, or any stream, lake, drain, ditch or place, open, covered or enclosed, public or private, natural or artificial, and whether maintained under statutory authority or not;
- (w) "regulations" means regulations made under this Act;
- (x) "street" includes any highway, any public bridge, and any road, lane, footway, square, court, alley or passage, whether a thoroughfare or not. R.S.O. 1937, c. 299, s. 1, cls. (*p-r*).

2.—(1) The Lieutenant-Governor in Council may appoint a duly qualified medical practitioner, of at least five years standing, to be Chief Inspector of Health.

Chief
Inspector
of Health.

(2) The Chief Inspector of Health may exercise, anywhere in Ontario, any of the powers conferred by this Act on medical officers of health, and he shall act under the direction of the Minister and shall perform such duties as may be assigned to him by the Minister or by the Deputy Minister. R.S.O. 1937, c. 299, s. 2.

Duties and
powers.

3. It shall be the duty of the Department and it shall have power,

Duties and
powers of
Department,

- (a) to make investigations and inquiries respecting the causes of disease and mortality in Ontario or in any part thereof;
- (b) to advise the officers of the Government in regard to public health generally, and as to drainage, water supply, disposal of garbage and excreta, heating, ventilation and plumbing of premises;
- (c) to exercise a careful oversight of vaccine matter and serum produced or offered for sale in Ontario, or manufacture the same if deemed advisable, and as far as possible prevent the sale of the same when found to be impure or inert, and ensure that a supply

investiga-
tions as to
disease and
mortality;

advising as
to sanitary
matters;

oversight of
vaccine and
serum;

of proper vaccine matter is obtainable at all times at such vaccine farms and other places as are subject to inspection by the Department;

determining whether nuisance exists;

(d) to determine whether the existing condition of any premises or of any street or public place, or the method of manufacture or business process, or the disposal of sewage, trade or other waste, garbage or excrementitious matter is a nuisance or injurious to health;

inspection of sanitary conditions in jails, etc.;

(e) to inspect all county jails, prisons, houses of refuge, sanatoria, hospitals, sanatoria, orphanages, homes or places of refuge, charitable institutions and other public or private institutions for the safe-keeping, custody or care of any person confined therein by process of law, or received or cared for therein at his own charges or by public or private charity, and ensure that such institutions are kept in a proper sanitary condition and that this Act and the regulations are complied with;

distribution of literature;

(f) to make public distribution of sanitary literature, especially during the prevalence in any part of Ontario of any communicable disease, and pay particular attention to all matters relating to the prevention and spread of communicable diseases in such manner as the Department may deem best to control any outbreak;

entry on premises and orders as to alterations therein.

(g) to enter into and go upon any premises in the exercise of any power or the performance of any duty under this Act, and make such orders and give such directions with regard to the structural alteration of the premises or with respect to any other matter as the Department may deem advisable in the interests of the public health. R.S.O. 1937, c. 299, s. 3.

Investigation as to disease and mortality.

4.—(1) The Minister may direct an officer of the Department to investigate the causes of any communicable disease or mortality in any part of Ontario, and the person so directed may take evidence on oath or otherwise, as he may deem expedient, and shall, for the purposes of such investigation, possess all the powers which may be conferred upon a commissioner appointed under *The Public Inquiries Act*.

Rev. Stat., c. 308.

Investigation as to unsanitary conditions and nuisances.

(2) Where it appears to the Department that any unsanitary condition or nuisance exists in a municipality, and that the local board has, on a proper representation of the facts, neglected or refused to take such measures as may remove such condition or abate such nuisance, the Minister may direct an investigation as provided by subsection 1.

(3) If upon such investigation it is found that a remediable unsanitary condition or nuisance exists, the Department may direct its immediate removal or abatement by the person responsible therefor, and if such person neglects or refuses after three days notice by the Department to remove or abate the same, may cause such removal or abatement to be made, and the treasurer of the municipality shall forthwith pay out of any money of the municipality any expenses incurred under such orders.

Removal or
abatement.

(4) Where it appears to the Department to be in the interests of the public health, the Minister may appoint the medical officer of a Government institution a medical officer of health with duties confined to the institution and to the inmates and staff thereof. R.S.O. 1937, c. 299, s. 4.

Medical
officer of
health,
appoint-
ment of.

5. The Minister, with the approval of the Lieutenant-Governor in Council, may make such regulations as may be deemed necessary for,

Regula-
tions,

- (a) the prevention or mitigation of disease; prevention
or mitiga-
tion of
disease;
- (b) the frequent and effectual cleansing of streets, yards and premises; cleansing
streets and
premises;
- (c) the removal of nuisances and unsanitary conditions; removal of
nuisances,
etc.;
- (d) the cleansing, purifying, ventilating and disinfecting of premises by the owners and occupiers or other persons having the care or ordering thereof; cleansing
and disin-
fecting
premises;
- (e) the construction, repair, renewal, alteration and inspection of plumbing, the material to be used in the construction of, and the location of drains, pipes, traps and other works and appliances forming part of or connected with the plumbing in any building or upon any property or in any highway, street, lane or public place, and in any structure or place, whether permanent or temporary, constructed or used thereon or therein; plumbing;
- (f) the location, construction, repair, renewal, alteration and inspection of sewers, drain-pipes, manholes, gully traps, flush tanks, and other works in or upon public, municipal or private property, forming part of or connected with any municipal sewerage system; sewerage
system;
- (g) regulating, so far as this Legislature has jurisdiction in that behalf, the entry and departure of boats or vessels at the different ports or places in Ontario, and the landing of passengers or cargoes from such boats or vessels or from railway carriages or cars, and the passenger
traffic;

receiving of passengers or cargoes on board the same, for the purpose of preventing the spread of any communicable disease;

burials;

(h) the safe and speedy interment or disinterment of the dead, the transportation of corpses and the conduct of funerals;

checking
communi-
cable
diseases;

(i) the supplying of such medical aid, medicine and other articles and accommodations as the Department may deem necessary for preventing or mitigating an outbreak of any communicable disease; R.S.O. 1937, c. 299, s. 5, cls. (a-i).

insulin;

(j) prescribing the terms and conditions upon which insulin may be supplied free of charge to indigent persons under section 54 and the forms to be used in connection therewith, and requiring and providing for the payment by the municipality in which the indigent person resides of a contribution towards the cost thereof in an amount not to exceed 25 per cent of such cost; 1950, c. 61, s. 2 (1).

inspection
for the
purpose of
disinfection;

(k) the inspection of premises by the local board or medical officer of health, or some officer of the Department, and the cleansing, purifying and disinfecting of anything contained therein when required by the local board or officer, at the expense of the owner or occupier, and for detaining for such purpose any steamboat, vessel, railway carriage or car, or public conveyance and anything contained therein and any person travelling thereby as may be necessary;

ordering
alteration or
destruction;

(l) entering and inspecting any premises used for human habitation in any locality in which conditions exist which, in the opinion of the Department, are unsanitary, or such as to render the inhabitants specially liable to disease, and for directing the alteration or destruction of any such building which is, in the opinion of the Department, unfit for human habitation;

preventing
overcrowd-
ing;

(m) preventing the overcrowding of premises used for human habitation by limiting the number of dwellers in such premises and the amount of air space to be allowed for each dweller therein;

preventing
travel by
persons
exposed to
infection;

(n) preventing the departure of persons from infected localities and for preventing persons or conveyances from passing from one locality to another, and for detaining persons or conveyances who or which have

been exposed to infection for inspection or disinfection until the danger of infection is past;

- (o) regulating the appointment of sanitary inspectors to be paid by the municipality in which they act for the purpose of enforcing this Act or the regulations, or any by-law in force in the municipality; sanitary inspectors;
- (p) the removal or keeping under surveillance of persons living in infected localities; surveillance;
- (q) authorizing the taking possession by a municipal corporation, local board, or medical officer of health, for any of the purposes of this Act, of any land or unoccupied building; taking possession of premises;
- (r) the sanitary precautions to be taken in health resorts, summer resorts and upon boats or other vessels plying upon lakes, rivers, streams and other inland waters, and for preventing the pollution of such waters by the depositing therein of sewage, excreta, vegetable, animal or other matter or filth; health and summer resorts and inland waters;
- (s) any other matter which, in the opinion of the Department, the general health of the inhabitants of Ontario or of any locality may require; general;
- (t) the manufacture of non-intoxicating beverages and distilled and mineral water, and the manufacture of syrups, wines and brewed beers; manufacture of beverages;
- (u) the inspection and licensing of plants and premises for the manufacture of non-intoxicating beverages and distilled and mineral water, and the manufacture of syrup, wines and brewed beer; inspecting, etc., beverage plants and premises;
- (v) prescribing the duties and powers of officers designated under section 11; R.S.O. 1937, c. 299, s. 5, cls. (j-u). duties of officers;
- (w) the medical and dental inspection and dental treatment of pupils in public, separate, continuation, high and vocational schools, where such inspection and treatment is undertaken by local boards under this Act, and for the apportionment and payment of all moneys appropriated or voted by the Legislature for that purpose; R.S.O. 1937, c. 299, s. 5, cl. (v); 1943, c. 24, s. 1. medical and dental inspection in schools;
- (x) prescribing the terms and conditions upon which a licence for fumigation or extermination may be issued, the fees payable therefor, the form and term thereof, and the terms and conditions upon which fumigation and extermination, licences;

- any such licence may be renewed, suspended or revoked;
- insurance; (y) fixing the amount and type of bond or insurance which shall be furnished or carried by a fumigator or exterminator and prescribing the form, requirements and terms thereof;
- procedures; (z) prescribing the procedures, methods and conditions for fumigation and extermination and prescribing the qualifications and providing for the licensing of every apprentice, employee, servant or assistant of any fumigator or exterminator;
- permits; (za) the issuing of permits by the local medical officer of health for fumigation of or extermination in any premises and the terms upon which any such permit may be issued, suspended or revoked;
- materials; (zb) prescribing the substances that may be used for fumigation and extermination;
- application of fumigation regulations; (zc) prescribing the types of premises to which the regulations respecting fumigation and extermination shall apply; 1950, c. 61, s. 2 (2).
- approval of substance by the Minister; (zd) requiring every substance which is or is intended to be used for fumigation to be approved by the Minister and prescribing the conditions upon which such approval may be granted; R.S.O. 1937, c. 299, s. 5, cl. (za).
- pasteurization and certificate of approval; (ze) regulating the pasteurization of milk and prescribing the form and the conditions under which a certificate of approval may be issued to any plant in which milk is pasteurized, or in which milk products are prepared; 1938, c. 30, s. 3, *part*.
- courses for officers, etc.; (zf) providing for courses of instruction and prescribing qualifications for medical officers of health, sanitary inspectors, food and dairy inspectors and public health nurses; 1938, c. 30, s. 3, *part*; 1941, c. 45, s. 2 (1).
- upholstered articles; (zg) regulating the construction, repairing, renewal, alteration, inspection, labelling and sale of upholstered or stuffed articles including mattresses, quilts, covers, pillows and other bedding, furniture and dolls, and the treating, processing, sterilizing and disinfecting of materials used therein, and requiring any such articles to be stamped with stamps supplied by the Department and in such form as the Department may prescribe, and fixing the fees to be paid therefor; 1938, c. 30, s. 3, *part*; 1939, c. 37, s. 1.

- (zh) defining, regulating and licensing summer camps, ^{camps and resorts;} summer resorts and agricultural camps but not including premises commonly known as tourist camps, boarding houses or lodging houses; 1940, c. 22, s. 2, *part*; 1944, c. 48, s. 2 (1).
- (zi) licensing, regulating and controlling diagnostic and ^{diagnostic and public health laboratories;} public health laboratories; 1940, c. 22, s. 2, *part*.
- (zj) prescribing qualifications for persons operating or ^{qualifications of laboratory personnel;} engaged in diagnostic or public health laboratories;
- (zk) prescribing the duties of medical officers of health, ^{duties of officers, nurses, etc.;} sanitary inspectors, food and dairy inspectors and public health nurses, in relation to public health matters not specifically provided for by this Act; 1941, c. 45, s. 2 (2).
- (zl) prescribing standards for the location, construction, ^{location, construction, etc., of dwellings;} alteration, repair and equipment of premises to be used as dwellings; 1944, c. 48, s. 2 (2), *part*.
- (zm) prescribing standards for the construction, operation ^{cold storage plants;} and maintenance of premises used for public cold storage of food for human consumption and requiring licences for such premises and fixing an annual licence fee of not more than \$5; 1944, c. 48, s. 2 (2), *part*; 1945, c. 17, s. 1 (1).
- (zn) prescribing standards for the location, construction, ^{swimming pools;} alteration, repair, operation and maintenance of swimming pools; 1945, c. 17, s. 1 (2).
- (zo) prescribing the form of application and report and ^{forms, pre-natal care;} the tests to be conducted under section 76; 1946, c. 78, s. 1.
- (zp) prescribing standards for the construction, opera- ^{food standards;} tion and maintenance of any premises where food or drink for human consumption is manufactured, processed or handled;
- (zq) regulating or restricting the manufacturing, pro- ^{food handling.} cessing, preparing, selling or offering for sale of any food or drink for human consumption. 1947, c. 82, s. 1.

6. The Department may, from time to time, declare all or ^{Application of regula-} any of such regulations to be in force in any specified municipality or locality for such time as the Department may deem expedient. R.S.O. 1937, c. 299, s. 6.

By-laws,
etc.,
superseded
by regula-
tions.

7.—(1) Any order or regulation made by the Department shall, while it is in force in any locality, supersede any municipal by-law or other regulation, including the by-law set out in Schedule B, dealing with the same subject matter, and so far as any such by-law or other regulation is inconsistent with the order or regulation of the Department, such by-law or other regulation shall be deemed to be suspended.

Publication
of regula-
tions.

(2) Every order or regulation made by the Department shall be published in the next report issued by the Department. R.S.O. 1937, c. 299, s. 8.

Powers of
officers of
the Depart-
ment.

8. The Deputy Minister, the district officers of health, the provincial sanitary inspectors in unorganized areas and any other officer of the Department specially authorized for the purpose shall possess all the powers conferred upon a medical officer of health and the officers of a local board by this Act or by the regulations. R.S.O. 1937, c. 299, s. 9.

Health dis-
tricts and
district
officers.

9.—(1) The Lieutenant-Governor in Council may divide the Province for the purposes of this section into not more than 10 health districts, and may appoint a legally qualified medical practitioner to be known as the district officer of health for each such district.

Salaries,
etc., of
district
officers
of health.

(2) Every district officer of health shall be paid such salary as may be fixed by the Lieutenant-Governor in Council, and his actual and necessary travelling and other expenses incurred in the discharge of his duties, and such salary and expenses shall be payable out of such sums as may be appropriated by the Legislature for that purpose.

District
officers of
health,
duties of.

(3) Every district officer of health,

- (a) shall within his district be the official representative of the Department, and subject to the approval of the Minister or the Deputy Minister shall have general control of statutory organization for public health;
- (b) for the promotion of public health and for the protection of the inhabitants from communicable disease, shall have authority, subject to the approval of the Minister to enforce the provisions of this Act and the regulations and shall be responsible through the local medical officer of health for the enforcement of this Act and the regulations; and
- (c) shall also have for the further effective carrying out of this Act and regulations all the powers and rights and authority to perform all the functions and duties of the local medical officer of health or the sanitary inspector under this Act.

(4) Whenever required so to do by the Department, a district officer of health shall have the same authority and shall perform the same duties in any part of Ontario as he might do in the district for which he is appointed.

May act in other districts.

(5) Every district officer of health shall act under the supervision and control of the Department, and shall report to it at least monthly, and at such other times as may be required, and shall in such report give such information as may be required by the Department or by the regulations.

To act under Department.

(6) The Department, every district officer of health and inspector, and every medical officer of health and sanitary inspector shall have authority to enforce the by-law set out in Schedule B, or any amendment thereof approved by the Department, and any by-law respecting the milk supply of, and any other by-law respecting sanitary matters in a municipality, and for such purpose may institute proceedings for the prosecution of offenders against any of the said by-laws.

Enforcement of sanitary by-laws.

(7) A district officer of health shall have the authority to summon a special meeting of a local board for public health purposes.

Authority to call special meeting.

(8) In territory without municipal organization, a district officer of health shall have the same rights and powers and shall perform the same duties as are conferred and imposed upon the local municipal councils, local boards and local medical officers of health in the administration and enforcement of this Act, *The Vaccination Act* and *The Venereal Diseases Prevention Act*. R.S.O. 1937, c. 299, s. 10.

Powers of district officer of health in unorganized territory.

Rev. Stat., cc. 406, 408.

10. The Minister may establish and maintain clinical laboratory centres at such places and with such buildings, appliances and equipment as he may deem proper and may give directions from time to time as to the operation of such laboratory centres, the nature and extent of the work to be done and the supplies necessary therefor, and the cost of establishing, furnishing and maintaining any clinical laboratory under this section shall be borne and paid out of such moneys as may be appropriated from time to time by the Legislature for that purpose. R.S.O. 1937, c. 299, s. 11.

Clinical laboratory centres.

11. The Minister may designate which officers of the Department shall inspect and supervise the work of school medical officers, dental officers and nurses appointed by boards of education, school boards or local boards of health for the purpose of medical and dental inspection in public, separate, continuation, high and vocational schools throughout Ontario, and such officers shall perform all duties required of them by the Department and by the provisions of this Act, *The Public Schools*

Designation of officers to supervise, etc., medical and dental work in schools.

Rev. Stat.,
cc. 316, 356,
94. *Act, The Separate Schools Act, The Department of Education Act, or any other Act or any regulations made thereunder with respect to such medical and dental inspection. R.S.O. 1937, c. 299, s. 12.*

LOCAL BOARDS OF HEALTH

Local
boards,

12.—(1) There shall be a local board of health for every municipality in Ontario, except where a health unit is established under this Act.

in cities and
in towns of
4,000 or
over;

(2) In a city, and in every town having a population of 4,000 or over according to the enumeration of the assessors for the last preceding year, the local board shall consist of the mayor, the medical officer of health, and three resident ratepayers to be appointed annually by the council at its first meeting in every year. R.S.O. 1937, c. 299, s. 13 (1, 2).

in cities
over
100,000;

(3) In a city having a population of 100,000 or over according to the enumeration of the assessors for the last preceding year, the council may by by-law provide that the local board shall consist of the mayor, the medical officer of health, and five resident ratepayers, at least two of whom shall not be members of the council, who shall be appointed annually by the council at its first meeting in every year. 1943, c. 24, s. 2.

in towns of
less than
4,000,
villages and
townships;

(4) In a town having a population of less than 4,000, according to such enumeration, and in every other municipality, the local board shall consist of the head of the municipality, the medical officer of health, and one resident ratepayer to be appointed as provided by subsection 2.

secretary;

(5) There shall be a secretary of the local board, and, unless otherwise provided by the council, the clerk shall be the secretary.

appoint-
ment of
member of
council;

(6) One or more members of the council may be appointed to be members of the local board.

where
health unit
established.

(7) Where a health unit is established, the local board thereof shall be constituted and appointed as provided by the regulations, and such local board shall take the place of the local board or boards which but for the establishment of the health unit would exist in the municipality or municipalities forming the health unit. R.S.O. 1937, c. 299, s. 13 (3-6).

Corporate
name.

13. Every local board shall be a corporation by the name of "The Local Board of Health of the City (or as the case may be) of " (*inserting the name of the municipality*). R.S.O. 1937, c. 299, s. 14.

14.—(1) A local board shall hold at least four meetings Meetings. in each year at a time and place to be fixed by resolution of the board, and such other meetings as may be prescribed by the regulations, or be required by the board.

(2) At the first meeting of a local board in every year, Chairman. which shall be held not later than the 1st day of February, the board shall elect one of its members to be chairman. R.S.O. 1937, c. 299, s. 15.

15. Any member of a local board may call a special meet- Special meetings. ing thereof at any time by giving notice in writing to the secretary and to the remaining members of the board. R.S.O. 1937, c. 299, s. 16.

16. The clerk of the municipality shall report to the De- Secretary to report mem-
bership of
board to
Department. partment the names and addresses of the members of the local board in each year on or before the 1st day of February, and he shall so report any change occurring during the year in the membership of the board. R.S.O. 1937, c. 299, s. 17.

17. Whenever a vacancy occurs in any local board of a Vacancies
in board. city or town by the death, resignation or removal of an appointed member, the council, at its first meeting after the vacancy occurs, shall appoint a resident ratepayer to fill the vacancy, and in default of such appointment, the Department may appoint a resident ratepayer of the municipality to fill the vacancy. R.S.O. 1937, c. 299, s. 18.

18. A majority of the members of a local board shall be Quorum. a quorum. R.S.O. 1937, c. 299, s. 19.

19. The council of a township may by by-law provide for Payment of
local boards
in townships. the payment to each member of the local board and to the secretary of a sum not exceeding \$4 for every attendance at meetings of the board and his necessary travelling expenses in going to and returning from such meetings. R.S.O. 1937, c. 299, s. 20.

20.—(1) The treasurer of the municipality shall forthwith Payment
of accounts
certified by
board. upon demand pay the amount of any account for services performed under the direction of the board and materials and supplies furnished, or for any expenditure incurred by the board or by the medical officer of health or sanitary inspector in carrying out the provisions of this Act or the regulations, after the board has by resolution approved of the account and a copy of the resolution certified by the chairman and secretary has been filed in the office of the treasurer.

Expenditures for school medical and dental inspection.

(2) The provisions of subsection 1 shall apply to payment of any expenditure incurred by a local board in providing medical and dental inspection of pupils in any school pursuant to section 94.

Rates for school purposes.

(3) The amounts of any payments made by the treasurer for the purposes mentioned in subsection 2 shall be levied and collected by a special rate on the rateable property of the supporters of the school or schools for the pupils of which medical and dental inspection is provided by the local board. R.S.O. 1937, c. 299, s. 21.

Recording proceedings.

21.—(1) The proceedings of every local board shall be recorded by the secretary in a book to be kept for that purpose. R.S.O. 1937, c. 299, s. 22 (1).

Annual report.

(2) The secretary shall annually, on or before the 15th day of February, prepare a report of the work done by the board during the year, and of the sanitary condition of the municipality. R.S.O. 1937, c. 299, s. 22 (2); 1939, c. 37, s. 2.

Report to be transmitted to Deputy Minister.

(3) The report as adopted by the local board shall include the annual report of the medical officer of health and shall be transmitted to the Deputy Minister. R.S.O. 1937, c. 299, s. 22 (3).

Weekly report to Department.

22. The secretary of every local board shall report weekly to the Department the number of cases of and deaths from communicable diseases, and the number of deaths from all other causes occurring in the municipality during the preceding week, upon a form to be supplied by the Department. R.S.O. 1937, c. 299, s. 23.

Enforcing authority of local board.

23.—(1) Whenever a local board has authority to direct that any matter or thing shall be done by any person, the board may also, in default of its being done by the person, direct that such matter or thing shall be done at the expense of the person in default, and may recover the expense thereof by action in any court of competent jurisdiction, or the board may direct that the same be added by the clerk of the municipality to the collector's roll and collected in like manner as municipal taxes. R.S.O. 1937, c. 299, s. 24 (1).

Installation of sanitary conveniences and water service by municipality.

(2) Where a local board in a municipality in which a sewerage system has been established, recommends that sanitary conveniences or suitable connections with a water service should be installed in any building, and is of the opinion that the owner of the premises is unable or unwilling to pay the expense of the same at once, the municipality may, with the approval of the Minister, instal suitable sanitary con-

conveniences and construct private drain connections required to connect such sanitary conveniences with the common sewers of the municipality, or may instal a water service pipe with the necessary connections to give a proper supply of water to the premises, at the expense of the owner, and the Department may direct that the cost, including interest at a rate not exceeding six per cent on the deferred payments, be paid by the owner in equal successive annual payments extending over a period not exceeding five years, and that such annual payments be added by the clerk of the municipality to the collector's roll and collected in like manner as municipal taxes. R.S.O. 1937, c. 299, s. 24 (2); 1945, c. 17, s. 2.

(3) A certificate from the clerk of the municipality setting forth the cost of the conveniences and a description of the lands upon which the same were made shall be registered in the proper registry or land titles office against the lands on proper proof by affidavit of the signature of the clerk, and upon payment in full of the cost of the conveniences a like certificate from the clerk shall be registered and the lands shall thereupon be freed from all liability with reference thereto. R.S.O. 1937, c. 299, s. 24 (3).

24.—(1) Where an action is brought against a local board or any member, officer or employee of a local board by any person who has suffered any damage by reason of any act or default on the part of the local board or any member, officer or employee thereof, the corporation of the municipality may assume the liability or the defence of the action, and may pay any damages or costs for which the board or the member, officer or employee is liable in respect of such act or default.

(2) In this section "employee" does not include a contractor with the local board. R.S.O. 1937, c. 299, s. 25.

25. It shall be the duty of a local board to superintend and ensure the carrying out of the provisions of this Act and of the regulations or of any by-law of the municipality pertaining to public health, and to execute, do and provide all such acts, matters and things as are necessary for that purpose. R.S.O. 1937, c. 299, s. 26.

26. Where information is given in writing to the local board by any resident householder of the existence of a nuisance or unsanitary condition in the municipality, the local board shall forthwith cause the complaint to be investigated and all necessary steps to be taken as provided by this Act or by the regulations to abate or remedy the same. R.S.O. 1937, c. 299, s. 27.

Cleansing
and disin-
fecting
houses, etc.

27.—(1) Where a medical officer of health is of opinion that the disinfecting of any house or part thereof, or of any articles therein likely to retain infection, would tend to prevent or check any communicable disease, he shall, through the sanitary inspector or otherwise, at the cost and charge of the municipality, disinfect such house or part thereof and the articles therein contained.

Idem.

(2) The disinfecting, renovating and cleansing of houses and premises shall be carried on in accordance with the regulations. R.S.O. 1937, c. 299, s. 28.

Ambulance.

28. A local board may provide, maintain or hire an ambulance or carriage for the conveyance of persons suffering from disease or accident, and may pay the expense of conveying therein any person so suffering to a hospital or other place. R.S.O. 1937, c. 299, s. 29.

Disinfecting
apparatus.

29. A local board may provide all necessary apparatus and attendance for the disinfection or destruction of bedding, clothing or other articles which have become infected, and may cause such articles to be disinfected free of charge or may make a reasonable charge for disinfecting them. R.S.O. 1937, c. 299, s. 30.

Destruction
of infected
bedding,
etc.

30. A local board may direct the destruction of any furniture, bedding, clothing or other articles which have been exposed to infection, and may give compensation therefor. R.S.O. 1937, c. 299, s. 31.

Appeal to
county judge
from order
of board.

31. Where the order of a local board or medical officer of health involves an expenditure of more than \$1,000, the person against whom the order is made or any person chargeable with such expenditure or any part thereof may, within four days after being served with a copy of the order, appeal therefrom to the judge of the county or district court who shall have power to vary or rescind the order, and any order so varied may be enforced by the Department in the same manner as an order originally made by the board or a medical officer of health. R.S.O. 1937, c. 299, s. 32.

Powers of
Minister on
default of
local
authorities.

32.—(1) Where a local board has not been established as required by this Act, or where a local board or any officer thereof has, in the opinion of the Minister, refused or neglected to act with sufficient promptness or efficiency in carrying out the provisions of this Act or any order or regulation of the Department, or to take such efficient measures as might remove any unsanitary condition or abate any nuisance, the Minister may direct an officer of the Department to carry out such

measures as are authorized by this Act, or by any order or regulation made thereunder.

(2) The expenses so incurred shall be certified by the Minister, and shall be a debt due by the corporation of the municipality, and upon presentation of such certificate, the treasurer of the municipality shall pay the same. Liability for payments of expenses.

(3) The corporation of the municipality whose treasurer pays the expenses so incurred as provided by subsection 2, may recover the amount so paid by action in any court of competent jurisdiction against the person certified in writing by the Minister to have been in default, or the council of the corporation of the municipality may direct the amount of the expenses to be added by the clerk of the municipality to the collector's roll and collected from the person so certified to be in default in like manner as municipal taxes. R.S.O. 1937, c. 299, s. 33. Recovery of expenses of carrying out orders of Department.

MEDICAL OFFICERS OF HEALTH

33.—(1) The council of every municipality shall appoint a legally qualified medical practitioner to be the medical officer of health for the municipality, and shall also appoint such number of sanitary inspectors for the municipality as may be deemed necessary by the local board, and as may be prescribed by the regulations, and every such appointment shall be subject to the approval of the Minister. R.S.O. 1937, c. 299, s. 34 (1); 1938, c. 30, s. 4. Medical officers of health and sanitary inspectors, appointment.

(2) Where the council refuses or neglects to make any of such appointments, or to fill any vacancy, the Department shall, by registered letter addressed to the clerk of the municipality, require the council to make the appointment or to fill the vacancy forthwith, and if the council continues in default for five days after the receipt of the letter, the Lieutenant-Governor in Council, upon the recommendation of the Minister, may make the appointment or fill the vacancy. By Lieutenant-Governor in Council in case of default.

(3) The council of a city having a population of 100,000 or over may appoint an assistant medical officer of health, or more than one assistant medical officer of health, who shall act under the direction of the medical officer of health, and while so acting shall have all the powers and perform the same duties as the medical officer of health. Assistant medical officers, appointment.

(4) The council of a township, with the approval of the Department, may appoint for any stipulated time more than one medical officer of health for the township and may limit the territory within which each of such officers shall act, and every such medical officer of health shall, within the territory Township may appoint more than one medical officer.

for which he is appointed, have and perform the powers and duties of a medical officer of health as set out in this Act or in any by-law passed thereunder and in force in the municipality. R.S.O. 1937, c. 299, s. 34 (2-4).

Appointment
of nurses
and physi-
cians by
council or
local board.

(5) The council of a municipality or a local board may appoint one or more food and dairy inspectors, one or more public health nurses, and one or more duly qualified physicians and engage such other services as may, in the opinion of the council or local board, be required for carrying out the provisions of this or any other Act administered by the Department or the regulations made thereunder for the prevention or treatment of disease. R.S.O. 1937, c. 299, s. 34 (5); 1941, c. 45, s. 3.

Appoint-
ment of
nurse by one
or more
municipali-
ties.

(6) The council of a town, township or village, or the local board thereof may unite with the council or councils or boards of health of one or more neighbouring municipalities for the purpose of appointing, employing and paying one or more public health nurses for the promotion of the public health and the prevention or treatment of disease, and such appointments shall be eligible for grants in respect of the same as may be provided by the regulations. R.S.O. 1937, c. 299, s. 34 (6).

Public
health
nurses.

(7) Any person who is appointed under this Act as a public health nurse shall be subject to the direction and control of the medical officer of health for the municipality for which such nurse is appointed. 1940, c. 22, s. 3.

Health
unit,
establish-
ment;

34.—(1) A health unit comprising a county, city, town, village or township may be established by by-law of the council of such municipality.

agreements
between
municipali-
ties;

(2) An agreement may be entered into between or among any such municipalities for the establishment of a health unit comprising both or all of the municipalities to the agreement.

in a county;

(3) Where a county, either alone or with another county or with a municipality separated from the county, is a health unit, the local municipalities in the county and not separated therefrom shall all form part of the health unit. 1944, c. 48, s. 3 (1), *part*.

in terri-
torial
district;

(4) A health unit in a territorial district may comprise one or more municipalities and one or more school sections and any area prescribed by order of the Lieutenant-Governor in Council. 1944, c. 48, s. 3 (1), *part*; 1945, c. 17, s. 3.

powers and
duties;

(5) Where a medical officer of health is appointed for a health unit, the provisions of this Act with respect to the appointment of municipal officers of health for the territory included in the health unit shall not apply and the powers and

duties of a medical officer of health in any such municipality shall thenceforth be exercised and performed by the medical officer of health for the health unit. R.S.O. 1937, c. 299, s. 35 (3).

(6) The Minister, with the approval of the Lieutenant-Governor in Council, may make regulations which may be general or particular in their application,

- (a) respecting the establishment of a health unit;
- (b) providing for the constitution of a board of health in any health unit, fixing the number of members and defining the powers of the board;
- (c) prescribing the powers, qualifications, salary and duties of a medical officer of health, school medical officers, dental officers, nurses, sanitary inspectors and other technical health workers in a health unit;
- (d) respecting the appointment and the tenure of office of the medical officer of health, school medical officers, dental officers, nurses, sanitary inspectors and other technical health workers in a health unit;
- (e) apportioning any expense incurred in carrying out this section and the regulations among the municipalities and school sections concerned. R.S.O. 1937, c. 299, s. 35 (4); 1944, c. 48, s. 3 (2, 3).

(7) The expenses incurred in carrying out the provisions of this Act and the regulations made thereunder with respect to a health unit shall be borne and paid in such proportion as may be agreed upon, or in default of agreement, in such proportion as may be fixed by the Minister, or in such manner as may be prescribed by the regulations.

(8) Subject to the regulations, where a health unit is established under this Act the Minister may grant such assistance for the establishment and maintenance of the health unit as he may deem proper and any such grant shall be payable out of any moneys appropriated by the Legislature for that purpose. R.S.O. 1937, c. 299, s. 35 (5, 6).

35. Every sanitary inspector appointed by the council shall hold office during the pleasure of the council, and, if appointed by the Lieutenant-Governor in Council, shall hold office until the 1st day of February in the year following that of his appointment. R.S.O. 1937, c. 299, s. 36.

36.—(1) Every medical officer of health appointed by the council shall hold office during good behaviour and his residence in the municipality, and, if appointed by the Lieutenant-

Governor in Council, shall hold office until the 1st day of February in the year following that of his appointment, and no medical officer of health shall be removed from office except on a two-thirds vote of the whole council and with the consent and approval of the Minister, who may require cause to be shown for the dismissal. R.S.O. 1937, c. 299, s. 37 (1); 1941, c. 45, s. 4 (1).

Age of retirement of M.O.H.

(2) Every medical officer of health shall cease to hold office upon attaining the age of 70 years, but the municipal council with the approval of the Minister may continue a medical officer of health in office from year to year until he has attained the age of 75 years. 1938, c. 30, s. 5, *part*.

Appointment out of municipality.

(3) Upon evidence satisfactory to the Minister that there is no person residing in a municipality qualified to be medical officer, the Minister may permit the council to appoint as medical officer of the municipality some person residing out of the municipality. 1938, c. 30, s. 5, *part*; 1941, c. 45, s. 4 (2).

Dismissal of M.O.H. for neglect of duty.

(4) A medical officer of health who refuses or neglects to carry out the provisions of this Act or the regulations, or any special order of the Department, or any by-law of the municipality relating to sanitary matters, may be dismissed from office by the Department or by the municipal corporation on the recommendation of the Department.

Annual inspection of schools by M.O.H.

(5) It shall be the duty of the medical officer of health to make a sanitary inspection of all schools in his municipality annually and to make a report to the Department regarding the same, using forms supplied by the Department for that purpose. R.S.O. 1937, c. 299, s. 37 (2, 3).

M.O.H. to be executive officer of board.

37. The medical officer of health shall be the executive officer of the local board, and with the local board shall be responsible for the carrying out of the provisions of this Act and of the regulations, and of the public health or sanitary by-laws of the municipality. R.S.O. 1937, c. 299, s. 38.

Action against M.O.H. prohibited.

38. No action, prosecution or other proceeding shall be brought or be instituted against a medical officer of health for an act done in pursuance or execution or intended execution of any statutory or other public duty or authority, or in respect of any alleged neglect or default in the execution of any such duty or authority, without the consent of the Minister. R.S.O. 1937, c. 299, s. 39.

Salaries of medical officers of health.

39. Every medical officer of health, whether appointed by the council or by the Lieutenant-Governor in Council, shall be paid by the municipal corporation a reasonable salary to be

fixed by by-law, and such salary shall be his total remuneration for his services as medical officer of health. R.S.O. 1937, c. 299, s. 40.

40. Sanitary inspectors shall be paid such annual sum as ^{Payment of} may be determined by the council of the municipality. R.S.O. ^{sanitary} 1937, c. 299, s. 41. ^{inspectors.}

41.—(1) Where a vacancy occurs in the office of medical ^{Vacancy in} officer of health, the council shall forthwith nominate another ^{office of} medical officer of health in his stead who shall be approved by ^{M.O.H.} the Minister as hereinbefore provided. R.S.O. 1937, c. 299, s. 42 (1).

(2) When the medical officer of health is ill or absent from ^{Temporary} the municipality for a protracted period, the council shall ^{absence of} appoint a legally qualified medical practitioner to be acting ^{M.O.H.} medical officer of health during the illness or absence, and such acting medical officer of health, during the illness or absence of the medical officer of health, shall have all the powers and perform all the duties of the medical officer of health, and such appointment shall be subject to the approval of the Department. R.S.O. 1937, c. 299, s. 42 (2); 1938, c. 30, s. 6; 1940, c. 22, s. 4.

42.—(1) There shall be an annual conference of all the ^{Annual} medical officers of health, and it shall be the duty of every ^{conference.} medical officer of health to attend the conference.

(2) The expenses of the attendance of each medical officer ^{Expenses of} of health shall be borne by the municipality, and shall be ^{attendance.} payable in addition to his salary on the certificate of the Deputy Minister.

(3) The conference shall be held at such time and place as ^{Time and} may be determined by the Department. R.S.O. 1937, c. 299, ^{place of} s. 43. ^{holding.}

ISOLATION HOSPITALS

43.—(1) The corporation of a municipality may establish, ^{Establish-} erect and maintain one or more isolation hospitals for the re- ^{ment.} ception and care of persons suffering from any communicable disease.

(2) The corporations of two or more adjacent municipali- ^{Municipalities may} ties may join in establishing, erecting and maintaining such ^{join in} a hospital. ^{establishing.}

(3) A corporation may borrow money by the issue of de- ^{Issue of} bentures for the purposes mentioned in subsection 1 or 2, and ^{debentures.}

it shall not be necessary to obtain the assent of the electors to any by-law for raising money for such purpose.

When payable.

(4) Debentures issued under this section shall be payable within 20 years from the date of the issue thereof.

Where to be established.

(5) Any such hospital may be established in a municipality or in one of the municipalities providing for the same or in an adjoining municipality.

Subject to sections 44 to 48.

(6) The powers conferred by this section shall be subject to the provisions of sections 44 to 48, but an isolation hospital shall not be established, maintained or kept by a municipal corporation upon lands in another municipality which were selected, purchased or contracted for, or upon which the corporation had secured an option before the 1st day of January, 1912, and upon which an isolation hospital had not before that date been erected, without the consent of the council of the municipality in which such lands are situate, and unless such consent had been obtained before the 16th day of May, 1912, such land shall not be used for that purpose. R.S.O. 1937, c. 299, s. 44.

Permission for establishment of isolation hospitals and consumption hospitals. Rev. Stat., c. 346.

44. No such isolation hospital and, except as provided by *The Sanatoria for Consumptives Act*, no sanatorium, institution or place for the reception, care or treatment of persons suffering from consumption or tuberculosis shall be established or maintained or kept within the limits of any municipality without permission to be given in the manner hereinafter provided. R.S.O. 1937, c. 299, s. 45.

Application to local board.

45.—(1) Every municipal corporation and every person desiring to establish, maintain or keep any such isolation hospital, sanatorium, institution or place in a municipality, shall make application in writing to the local board of the municipality for permission to do so.

Notice of meeting.

(2) The local board shall give notice of the application and of the meeting at which the application will be considered by advertisement once a week for two successive weeks in a newspaper published in the municipality or, if there is no such newspaper, in a newspaper published in an adjoining municipality.

Consideration of application.

(3) The local board shall take such application into consideration at its next general meeting after the last publication of such notice, or at a special meeting to be called for the purpose within one month after that date.

Hearing and decision.

(4) The local board shall hear the applicant for such permission in person or by counsel, and shall hear any person opposed to the granting of such permission, and shall within

one month thereafter determine by resolution of the board whether or not the application shall be granted.

(5) If the local board determines not to grant such permission, notice in writing of its decision shall forthwith be given to the applicant by registered letter, and the applicant may appeal from such decision to a board of appeal to be composed of the head of the municipality, the sheriff of the county or district in which the municipality is situate, and the Deputy Minister. Refusal of permission and appeal.

(6) The appeal shall be by notice in writing addressed to the Deputy Minister and sent by registered post to him within seven days after the receipt of notice of the decision of the local board. Notice of appeal.

(7) The Deputy Minister shall appoint a time and place for the consideration of the appeal, and at least seven days notice of the time and place of hearing the appeal shall be given by registered letter addressed to the secretary of the local board and to the applicant, and by advertisement in a newspaper published in the municipality in which it is sought to establish such hospital, sanatorium, institution or place of reception, or, if there is no such newspaper, in a newspaper published in the county or district town of the county or district in which such municipality is situate. Notice of hearing of appeal.

(8) The board of appeal shall hold a sitting at such time and place and shall hear what may be alleged for and against such appeal on behalf of the applicant and the local board or any ratepayer of the municipality who may object to the granting of such permission. Hearing of appeal.

(9) The board of appeal may adjourn the proceedings for the purpose of visiting any building or proposed site and determining upon its suitability or procuring such further information as the board may deem necessary. View of locality.

(10) The decision of the board of appeal or a majority of the members thereof shall be given in writing and shall be final. Decision of board of appeal.

(11) Each of the members of the board of appeal shall be entitled to a fee of \$10 per day for each day during which he is necessarily engaged in connection with the appeal and reasonable and necessary expenses, and the same and any other costs and expenses incurred in hearing the appeal shall be payable by the appellant upon the written order of the Minister to the persons entitled thereto. Fees of board of appeal.

(12) Nothing in this section or in section 44 shall apply to any public general hospital in which persons suffering from Non-application of sections.

other diseases as well as persons suffering from consumption or tuberculosis are received and treated. R.S.O. 1937, c. 299, s. 46.

Penalty.

46. Every person who erects, establishes or maintains any such isolation hospital, sanatorium, institution or place, or who takes part in the superintendence or management thereof, until permission has been given as provided by section 45, shall be guilty of an offence and liable to a penalty of not more than \$25 for every day on which the offence is continued. R.S.O. 1937, c. 299, s. 47.

Plans to be approved by Department.

47.—(1) No isolation hospital shall be established by the corporation of any municipality until the plans and the proposed equipment thereof have been submitted to and approved by the Department.

Alterations, etc.

(2) Every municipal corporation establishing an isolation hospital shall from time to time make such alterations therein and such changes or improvement in the equipment thereof as may be directed by the Department. R.S.O. 1937, c. 299, s. 48.

Control of isolation hospital.

48.—(1) Subject to the regulations, the local board of the municipality by the corporation of which an isolation hospital is established, shall have the management and control of it and of the conduct of the physicians, nurses, attendants and patients. R.S.O. 1937, c. 299, s. 49.

Idem.

(2) Notwithstanding subsection 1, an agreement may be entered into between the local board of the municipality by the corporation of which an isolation hospital is established, the council of the municipality and the board of trustees of a public hospital, providing for the management and control of the isolation hospital and of the conduct of the physicians, nurses, attendants and patients by the board of trustees of the public hospital. 1945, c. 17, s. 4.

EMERGENCY HOSPITALS

Temporary emergency hospitals in case of outbreak of disease.

49. Where any communicable disease, to which this section is made applicable by the regulations, becomes prevalent in a municipality, and the municipal corporation has not already provided proper hospital accommodation for such cases, the local board shall immediately provide, at the cost of such corporation, such a temporary hospital, hospital tent or other place or places of reception for the sick and infected as may be deemed best for their accommodation and the safety of the inhabitants, and for that purpose may,

- (a) erect such hospital, hospital tent or place of reception;
 - (b) contract for the use of any existing hospital, hospital tent or place of reception; or
 - (c) enter into an agreement with any person having the management of any such hospital, subject to the approval of the medical officer of health of the local municipality in which the hospital is situate, for the reception and care of persons suffering from the communicable disease, and for the payment of such remuneration therefor as may be agreed upon.
- R.S.O. 1937, c. 299, s. 50.

ACQUIRING LAND

50.—(1) Where an outbreak of any of the diseases to which section 49 applies occurs or is apprehended, the local board may enter upon and take and use for the purposes mentioned in that section any land or unoccupied building without prior agreement with the owner of the same and without his consent, and may retain the same for such period as may appear to the board to be necessary.

Occupying
land in case
of emer-
gency.

(2) Written notice (Schedule A) shall, within five days after the taking or obtaining possession, be given by the board to the clerk of the municipality wherein the land or unoccupied building is situate, and such notice shall be given whether possession is taken or obtained with the consent of the owner or otherwise.

Notice to
clerk of
local mun-
icipality.

(3) Where possession is taken without the consent of the owner, the board shall, within five days after taking possession, give the like notice to the owner.

Notice to
owner where
not a con-
senting
party.

(4) If the owner is not known, or is not a resident in Ontario, or if his residence is unknown to the board, the board shall cause the notice to be published in two successive issues of some local newspaper having a circulation within the municipality where the property is situate, and shall send by registered post to the last known address, if any, of the owner a copy of the notice, and such publication shall be sufficient notice to the owner.

Where
owner or his
address is
unknown.

(5) The owner shall be entitled to compensation from the corporation of the municipality wherein the land or building is situate for the use and occupation thereof, including any damages arising from such use and occupation, such compensation to be agreed upon between the council of the municipality and the owner, and in case they do not agree, the judge

Compensa-
tion.

of the county or district court of the county or district in which the property is situate shall summarily determine the amount of the compensation and the terms of payment in such manner and after giving such notice as he sees fit. R.S.O. 1937, c. 299, s. 51.

Order for possession.

51. Where any resistance or forcible opposition is offered or apprehended to possession being taken of the land or building, the judge of the county or district court may, without notice to any person, issue his warrant to the sheriff of the county or district, or to any other person, as he may deem most suitable, requiring him to put and maintain the board, its agents or servants in possession, and to put down such resistance or opposition, which the sheriff or other person, taking with him sufficient assistance, shall accordingly do. R.S.O. 1937, c. 299, s. 52.

MEDICAL CARE OF INDIGENTS

Municipal corporation to provide for medical attendance for indigent persons.

52.—(1) The corporation of every municipality shall enter into an agreement with the medical officer of health or some other legally qualified medical practitioner resident in the municipality or in a municipality adjacent thereto for his medical attendance upon and care of persons suffering from the result of injury or disease who, in the opinion of the head of the municipality or of its relief officer, if any, are unable through poverty to pay for the necessary attendance, and who are not cared for in a public or private hospital.

M.O.H. need not act unless agreement made.

(2) This section shall not impose any duty on the medical officer of health in respect to such cases, unless an agreement has been entered into with him as provided in subsection 1.

In absence of agreement M.O.H. to be deemed indigent M.O.H.

(3) Failing the making of any other agreement, the medical officer of health shall be deemed to be indigent medical officer of health for the municipality and shall be remunerated for his service as indigent medical officer, according to the provisions of subsection 4.

Agreement to provide for remuneration.

(4) Every such agreement shall provide for fair and reasonable remuneration for the service rendered. R.S.O. 1937, c. 299, s. 53.

Disputes as to remuneration of M.O.H., application to county judge.

53.—(1) Where a medical officer of health claims that the salary paid to him by a municipal corporation or the remuneration provided for under section 52 is not fair and reasonable, and gives notice of such claim in writing, signed by him, to the clerk of the municipal corporation, and the council of the corporation neglects to comply with such demand, or directs the serving upon the medical officer of health

of a notice disputing the claim, the medical officer of health, after the expiration of 10 days from the receipt of the notice by the clerk of such corporation, may apply in a summary manner to the judge of the county or district court of the county or district in which the municipality lies, for an order allowing his claim and fixing the amount payable to him as salary under section 39 or as remuneration under section 52, and upon such application the judge shall hear the parties and their witnesses and shall make such order as he may deem just, and in and by such order shall settle and determine the salary properly payable to such medical officer of health, and a fair and reasonable remuneration under section 52.

(2) If such application is not made by the medical officer of health within 30 days after receiving notice from the corporation disputing his claim, he shall be deemed to have abandoned the claim. Time for making application.

(3) The judge, upon the application, shall take into consideration all the circumstances of the case, and among other matters the physical extent, population and assessment of the municipality. Powers of Judge.

(4) *The Judges' Orders Enforcement Act* shall apply to every application or order made under this section. Application of Rev. Stat., c. 189. R.S.O. 1937, c. 299, s. 54.

PROVISIONS AS TO COMMUNICABLE DISEASE

54.—(1) The Minister may supply insulin to indigent persons free of charge upon the terms and conditions prescribed by the regulations. Insulin supplied free of charge.

(2) The regulations may prescribe that the municipality in which the indigent person resides shall contribute a part of the cost of insulin, such contribution not to exceed 25 per cent of the cost. 1950, c. 61, s. 3. Cost of supplying.

55.—(1) Whenever any householder knows or has reason to suspect that any person within his family or household, or boarding or lodging with him, has any communicable disease, he shall, within 12 hours, give notice thereof to the secretary of the local board or to the medical officer of health. Notice by householder.

(2) The notice may be given to the secretary or to the medical officer of health at his office, or by letter addressed to either of them and mailed within the time above specified, and the secretary of the local board shall forthwith transmit to the medical officer of health notice of each case of communicable disease reported to him. How given.

Notice of communicable disease to be included in weekly report.

(3) Every such notice filed with the medical officer of health shall be transmitted forthwith by him to the secretary of the local board, and shall be included in the weekly report required to be sent to the Department under section 22. R.S.O. 1937, c. 299, s. 55.

Removal of person or clothing prohibited.

56.—(1) No householder, in whose dwelling there occurs any communicable disease, shall permit any person suffering from or exposed to such disease to leave, or any clothing or other property to be removed from his house without the consent of the medical officer of health, who may forbid such removal or prescribe the conditions thereof.

Milk containers.

(2) Milk bottles and other containers used in the delivery of milk and which may be used again for the same or any other purpose shall not be returned from or taken away from any premises under quarantine for any communicable disease until the quarantine has been raised and they shall then be removed in such manner as the medical officer of health may direct and before being refilled or used for any other purpose, they shall be disinfected by live steam in such manner as the regulations may require.

Who to be deemed exposed to disease.

(3) Every person in a house when a communicable disease exists therein, and every person who during the period of quarantine enters such house, shall be deemed to be exposed to the disease.

Communicable diseases of the eyes.

(4) It shall be the duty of every physician, medical officer of health, superintendent of a hospital, nurse, midwife and every person in charge of a maternity hospital, every householder, and every person in charge of a child, to see that such requirements as may be prescribed by this Act or by the regulations are duly complied with in respect of ophthalmia neonatorum, trachoma, inflammation of the eyes of the newborn, or other communicable diseases of the eyes.

Maternity cases, duty as to reporting death of mother.

(5) It shall be the duty of every physician, medical officer of health, superintendent of a hospital, nurse, midwife or other person in charge of a maternity case in which the death of a mother takes place from causes directly or indirectly associated with pregnancy or parturition forthwith to report such death and the causes thereof according to the regulations. R.S.O. 1937, c. 299, s. 56.

Report by physician.

57.—(1) Whenever any legally qualified medical practitioner knows, or has reason to suspect, that any person whom he is called upon to visit is infected with any communicable disease, he shall within 12 hours give notice thereof to the medical officer of health of the municipality in which the diseased person is.

(2) This section shall apply to the medical superintendent or person in charge of any general or other hospital in which there is known to him to be a patient suffering from any communicable disease. Superintendents of hospitals, etc.

(3) The provisions of subsection 1 shall apply to any person registered and practising as a drugless practitioner under the authority of *The Drugless Practitioners Act*. R.S.O. 1937, c. 299, s. 57. Reporting communicable disease. Rev. Stat., c. 110.

58.—(1) Where any communicable disease is found or suspected to exist in any municipality, the medical officer of health and local board shall use all possible care to prevent the spread of infection or contagion by such means as in their judgment is most effective for the public safety. Precautions against spread of infection.

(2) The medical officer of health or local board, when it is considered necessary to prevent the spread of any communicable disease, may direct that any school or seminary of learning, or any church or public hall or other place used for public gatherings or entertainment in the municipality shall be closed, and may prohibit all public assemblies in the municipality, and no such school, seminary, church, hall or public place shall be kept open after such direction for the admission of the public, nor be re-opened without the permission of the medical officer of health. R.S.O. 1937, c. 299, s. 58. Closing schools, churches, etc.

59. Where by the regulations the provisions of this section are made applicable in respect of any communicable disease, the medical officer of health or the local board shall as required by the regulations, isolate persons having such disease, persons who are or may be contacts therewith and persons who are or may be carriers thereof, and shall forthwith and as provided by the regulations quarantine the house or premises in which such disease exists or in which such persons are isolated. R.S.O. 1937, c. 299, s. 59. Isolation of patient.

60.—(1) If any person found within any municipality within Ontario, is infected, or has recently been infected with, or exposed to, any communicable disease to which this section is made applicable, by the regulations, the medical officer of health or local board shall make effective provision for the public safety by removing such person to a separate house or by otherwise isolating him, and by providing medical attendance, medicine, nurses and other assistance and necessities for him. R.S.O. 1937, c. 299, s. 60 (1); 1942, c. 31, s. 2. Isolation of infected persons.

(2) The corporation of the municipality shall be entitled to recover from such person the amount expended in providing such medical attendance, medicine, nurses and other as- Recovery of expenses.

sistance and necessities for him, but not the expenditure incurred in providing a separate house or in otherwise isolating him. R.S.O. 1937, c. 299, s. 60 (2).

Carrier
of germs.

61.—(1) The medical officer of health shall take such steps as may be necessary for the public safety with respect to any person within the municipality who in the opinion of the medical officer is a carrier of the germs of any communicable disease to which this section is made applicable by the regulations.

Examina-
tion.

(2) The medical officer of health may require any person within the municipality whom he believes to be such a carrier to submit to such clinical or laboratory examination or investigation as may be necessary to determine whether such person is a carrier.

Orders and
directions.

(3) The medical officer of health may give such orders or directions to any such carrier as he may deem necessary to prevent the spread of the disease, and may direct such person to be isolated in any premises or locality, and may prohibit such person from residing in any premises or engaging in any work which in the opinion of the medical officer is likely to cause the spread of the disease, and may do all such acts as are necessary to enforce the carrying out of any such order, direction or prohibition.

Compensa-
tion.

(4) Upon evidence satisfactory to the Minister that any person is such a carrier and that such person has been deprived of his means of livelihood by an order or direction of the medical officer of health, the Department may, out of any moneys appropriated by the Legislature for the purposes of the Department, pay compensation to such person, the amount of which to be determined in the regulations. 1938, c. 30, s. 7.

Recovery of
expense
incurred
through
neglect or
refusal to
carry out
Act.

62. Where, owing to the refusal or neglect of the medical officer of health, the local board or the corporation of any municipality, any communicable disease is brought into another municipality, the corporation of which incurs expense in preventing the spread of such communicable disease, the corporation of the municipality in default shall pay to the corporation of the municipality incurring such expense the whole amount thereof, and the same shall be recoverable as a debt in any court of competent jurisdiction. R.S.O. 1937, c. 299, s. 61.

Removal of
patients.

63. No person suffering from any communicable disease to which this section is made applicable by the regulations shall be removed at any time except by permission and under direction of the medical officer of health, nor shall any occupant of any house in which there exists any such communicable disease change his residence to any other place without

the consent of the medical officer of health or without complying with such conditions as he may prescribe. R.S.O. 1937, c. 299, s. 62.

64. The medical officer of health, or a legally qualified medical practitioner appointed by him in writing for that purpose, may enter in and upon any house, out-house or premises, in the day time, for the purpose of making inquiry and examination with respect to the state of health of any person therein, and cause any person found therein who is infected with any communicable disease to be removed to a hospital or some other proper place. R.S.O. 1937, c. 299, s. 63.

65.—(1) Where there is any reason to suspect that any person suffering from a communicable disease to which this section is made applicable by the regulations is in or upon any railway car, street railway car, steamboat, vessel or other conveyance, the medical officer of health or sanitary inspector of the municipality, or any member of the local board, may enter such conveyance and cause such person to be removed therefrom, and may detain the conveyance until it is properly disinfected, or such officer or member may, if he thinks fit, remain on, or in, or re-enter and remain on or in such conveyance, with any assistance he may require, for the purpose of disinfecting it, and his authority shall continue in respect of such person and conveyance notwithstanding that the conveyance is taken into another municipality.

(2) The expense incurred for medical attendance, care, nursing, maintenance and all costs for disinfection shall be paid by the owner of the conveyance in which such person is found.

(3) Any legally qualified medical practitioner or sanitary inspector authorized by the Department shall have the same authority as a medical officer of health under this section. R.S.O. 1937, c. 299, s. 64.

66. Where any communicable disease is reported or discovered in a dwelling house or out-house occupied as a dwelling, and such house or out-house is in a filthy and neglected state, the medical officer of health may, at the expense of the corporation of the municipality, compel the inhabitants of the dwelling house or out-house to move therefrom, and may place them in sheds or tents or other proper shelter, in some more suitable situation, until measures can be taken, under the direction and at the expense of the municipal corporation, for the immediate cleansing, ventilation, purification and disinfection of such dwelling house or out-house. R.S.O. 1937, c. 299, s. 65.

Patients and
nurses, pre-
cautions
as to
disinfection.

67. No person recovering from any communicable disease to which this section is made applicable by the regulations, and no nurse who has been in attendance on any such person, shall leave the premises or expose himself in any public place, street, shop, inn or public conveyance until he has received from the medical officer of health a certificate that in his opinion such person or nurse has taken such precautions as to his person, clothing and all other things which he proposes to bring from the premises as are necessary to insure the immunity from infection of other persons with whom such person or nurse may come in contact. R.S.O. 1937, c. 299, s. 66.

Measures
prescribed
by Depart-
ment.

68. Every such person and nurse shall adopt for the disinfection and disposal of excreta, and for the disinfection of utensils, bedding, clothing and other things which have been exposed to infection, such measures as may be prescribed by the regulations or by the medical officer of health. R.S.O. 1937, c. 299, s. 67.

Sanitary
precautions
before
mingling
with public.

69. No person suffering from or having recently recovered from any communicable disease to which this section is made applicable by the regulations shall mingle with the general public, and no person having access to any such person, except the attending physician and clergyman, shall do so, until such sanitary precautions as may be prescribed by the medical officer of health have been complied with. R.S.O. 1937, c. 299, s. 68.

Notice to be
given before
using public
conveyance.

70.—(1) No person suffering from or having recently recovered from any communicable disease to which this section is made applicable by the regulations shall expose himself, nor shall any person expose any one under his charge who is so suffering from any such disease in any railway car, street railway car, steamboat, vessel or other conveyance, without having previously notified the owner or person in charge of such conveyance of the fact of his having such disease.

Conveyance
to be dis-
infected.

(2) The owner or person in charge of any such conveyance shall not, after the entry of any infected person into his conveyance, allow any other person to enter it without having sufficiently disinfected it under the direction of the medical officer of health or sanitary inspector. R.S.O. 1937, c. 299, s. 69.

Bedding,
clothing,
etc.

71. No person shall give, lend, transmit, sell or expose any bedding, clothing or other article likely to convey any communicable disease without having first taken such precautions as the medical officer of health may direct for removing all danger of communicating such disease to others. R.S.O. 1937, c. 299, s. 70.

72. No person shall let or hire, or permit to be occupied, any house or room in a house in which any communicable disease has recently existed without having caused the house and premises used in connection therewith to be disinfected to the satisfaction of the medical officer of health, and, for the purpose of this section, the keeper of an inn or house for the reception of lodgers shall be deemed to let for hire part of a house to any person admitted as a guest into such inn or house. R.S.O. 1937, c. 299, s. 71.

Disinfection
of houses,
etc.

73. No person letting for hire, or showing for the purpose of letting for hire, any house or part of a house, on being questioned by any person negotiating for the hire of such house or part of a house, as to the fact of there previously having been therein any person, animal or thing suffering from or liable to be infected by any communicable disease, shall knowingly make a false answer to such question. R.S.O. 1937, c. 299, s. 72.

False state-
ments of per-
sons renting
or showing
houses.

74.—(1) No common carrier shall knowingly accept for transportation or carry within Ontario, except under and subject to the regulations, any person suffering from any communicable disease to which this section is made applicable by the regulations, or any infected article or articles of clothing, bedding or other property whatsoever.

Transporta-
tion of
infected
persons.

(2) No carrier shall knowingly accept for transportation or carry within Ontario the body of any person who has died of any communicable disease, except under and subject to the regulations.

Corpses.

(3) Every person contravening the provisions of this section shall be guilty of an offence and liable to a penalty of \$100. R.S.O. 1937, c. 299, s. 73.

Penalty.

75.—(1) Whenever a communicable disease exists in any house or household in which there is a person who is a student or pupil in, or a teacher or other person employed in any capacity in or about a university, college, school or other institution of learning, the householder shall, within 12 hours after the time such disease is known to exist, notify the principal, superintendent, head teacher or other person in charge of such institution, and also the medical officer of health, of the existence of such disease, and the person suffering therefrom shall not attend or be employed at such institution until a certificate has been obtained from the medical officer of health that he may safely do so.

School
attendance
from houses
in which
communi-
cable disease
exists.

(2) Whenever a local board, or any of its officers or members, are aware of the existence in any house of any communi-

Duty of
local board
and teacher.

cable disease, they shall at once notify the principal, superintendent, head teacher or other person in charge of any university, college, school or other institution of learning at which any member of the household is in attendance, either as a student or pupil, or in or about which he is employed as a teacher or in any other capacity, and none of such last-mentioned persons shall after such notice be permitted to attend, or be employed or be in or about such institution, until the certificate mentioned in subsection 1 is obtained and presented.

Teacher to give notice of cases of communicable disease.

(3) Whenever a professor, lecturer, instructor or teacher in any such institution of learning has reason to suspect that any other professor, lecturer, instructor or teacher in, or any student or pupil of, or any person employed in or about, such institution, is suffering from a communicable disease, or that there exists in any household of which he is a member any communicable disease, such first-mentioned person shall notify the medical officer of health thereof, and shall not permit the attendance of the person suffering from such disease if under his direction or control until the medical officer of health certifies that such attendance may be safely allowed.

Pupil not to attend within minimum time fixed by regulations.

(4) No student or pupil having suffered from a communicable disease shall be allowed to attend any such institution of learning within the minimum period prescribed by the regulations.

Boarding schools.

(5) Whenever a communicable disease exists in any boarding school or other institution in which pupils are received for tuition and boarded or lodged, the head of the institution or the person in charge thereof shall immediately isolate the person suffering from such disease and any person in attendance upon him, and, within 12 hours after the disease is known to exist, shall notify the medical officer of health, and shall not permit the person so suffering or any person in attendance upon him to mingle with the other pupils or inmates of the institution until the medical officer of health has certified that he may safely do so. R.S.O. 1937, c. 299, s. 74.

PRE-NATAL EXAMINATION

Free medical examination for expectant mothers.

76.—(1) Every expectant mother may obtain a free medical examination upon making application in the prescribed form to a duly qualified medical practitioner.

Report to Minister.

(2) The medical practitioner shall make a complete physical examination and perform such tests as may be prescribed by the regulations and shall, within 14 days of the examination, forward to the Minister a report in the form prescribed by the regulations.

(3) Every medical practitioner who makes an examination ^{Fee.} and report in accordance with this section shall be paid a fee of \$5 by the Minister. 1946, c. 78, s. 3.

FUMIGATION

77.—(1) No person other than a fumigator or exterminator ^{Restrictions re fumigation and extermination.} licensed under the regulations shall be engaged in or perform any fumigation or extermination of premises anywhere in Ontario, except by permission in writing granted by the Minister. R.S.O. 1937, c. 299, s. 75 (1); 1950, c. 61, s. 4 (1).

(2) No person,

Idem.

(a) shall be engaged in or perform or do any act in connection with the fumigation of or extermination in any premises; or

(b) shall offer to fumigate or exterminate in any premises,

except under the authority of the regulations. 1950, c. 61, s. 4 (2).

(3) Every licensed fumigator shall with respect to the fumigation of any premises be responsible for the acts or omissions ^{Fumigator responsible for employees, etc.} of his employees, servant or agents in respect of such premises. R.S.O. 1937, c. 299, s. 75 (3).

78.—(1) Subject to the approval of the Minister, every municipality shall have authority to enact by-laws ^{Municipal by-laws.} respecting fumigation and extermination not inconsistent with this Act and the regulations and providing for the use of substances not mentioned in this Act or prescribed by the regulations. 1950, c. 61, s. 5 (1).

(2) Any municipality may by by-law require that a fee of ^{Fee for permit, appointment of inspectors.} \$1 shall be payable to the municipality and be collected by the medical officer of health for every permit for fumigation and extermination issued under this Act and the regulations, and for the purpose of administering and enforcing the provisions of this Act, the regulations and any by-law relating to the fumigation and extermination of premises, the council of every municipality shall appoint such inspectors as the Minister may deem necessary, provided that if any such municipality fails to comply with this section the Lieutenant-Governor in Council may make such appointments, and all inspectors so appointed shall be paid by the municipality such remuneration as the Lieutenant-Governor in Council may determine. R.S.O. 1937, c. 299, s. 76 (2); 1950 c. 61, s. 5 (2).

79.—(1) At least 24 hours before commencing fumigation ^{Fumigator to give 24 hours notice.} operations, the fumigator shall deliver a notice in writing to

every adult person residing in the premises to be fumigated and at least one adult person residing in each of the,

- (a) buildings adjoining the buildings to be fumigated;
- (b) premises which form part of an apartment building or semi-detached house of which the premises to be fumigated form a part; and
- (c) premises so located that the fumigation of the premises to be fumigated constitutes an actual or potential hazard to the occupants of premises so located.

Form of
notice.

(2) Every such notice shall state there is danger that a poisonous gas which is to be used in fumigation operations may enter adjoining premises and shall indicate what premises are to be fumigated, the date and day of the week of the fumigation, the house at which fumigation operations are intended to be commenced and the approximate time during which the occupants of all such premises are required to absent themselves therefrom.

Occupants
must
vacate.

(3) All occupants of such premises shall vacate and remain out of the premises during the entire period of fumigation and airing-out, and it shall be the duty of the fumigator to inform the occupants when it is safe to re-enter the premises.

Police
protection.

(4) Every police officer, constable and other person appointed under any Act of the Legislature for the preservation and maintenance of the public peace is empowered to remove any person from any of the buildings and premises mentioned in subsection 1 upon being satisfied that the provisions of that subsection have been complied with, and in order to effect such removal may use such force as is reasonably necessary.

Premises
to be
aired out.

(5) The fumigator shall ensure that all such premises are thoroughly aired out before re-occupancy. R.S.O. 1937, c. 299, s. 77.

NUISANCES

Removal, Abatement, etc.

Nuisances,
what to be
deemed.

80. Any condition existing in any locality which is or may become injurious or dangerous to health or prevent or hinder in any manner the suppression of disease shall be deemed a nuisance within the meaning of this Act. R.S.O. 1937, c. 299, s. 78.

Particular
nuisances.

81. Without restricting the general application of section 80 and for greater particularity it is declared that,

- (a) any premises or part thereof so constructed or in such a state as to be injurious or dangerous to health;
- (b) any street, pool, ditch, gutter, water-course, sink, cistern, water or earth closet, privy, urinal, cesspool drain, dung pit or ash pit, so foul or in such a state, or so situated as to be injurious or dangerous to health;
- (c) any well, spring or other water supply injurious or dangerous to health;
- (d) any stable or other building in which animals are kept in such a manner or in such numbers as to be injurious or dangerous to health;
- (e) any accumulation or deposit of refuse, wherever situate, which is injurious or dangerous to health;
- (f) any deposit of offensive matter, refuse, offal or manure contained in uncovered trucks or waggons at any station or siding or elsewhere so as to be injurious or dangerous to health;
- (g) any work, manufactory, trade or business so situated as to be injurious or dangerous to health;
- (h) any house or part of a house so overcrowded as to be injurious or dangerous to the health of the inmates or in which insufficient air space is allowed for each inmate to comply with the regulations;
- (i) any schoolhouse, public or private, factory, shop or other building, which is not in a cleanly state or free from effluvia arising from any drain, privy, water or earth closet, urinal or other nuisance, or is not ventilated in such a manner as to render harmless so far as practicable any gases, vapours, dust or other impurities generated therein which are injurious or dangerous to health, or is so overcrowded as to be injurious or dangerous to the health of those employed or being therein;
- (j) any fireplace or furnace the fires of which do not, so far as practicable, consume the smoke arising from the combustible matter used therein for working engines, or used in any mill, factory, dye-house, brewery, bakehouse or gas works, or in any manufacturing or trade process whatever;
- (k) any chimney emitting smoke in such quantity as to be injurious or dangerous to health; and
- (l) any burial ground, cemetery or other place of sepulture so located or so crowded or otherwise so arranged

or managed as to be offensive or injurious or dangerous to health,

shall be deemed nuisances within the meaning of this Act. R.S.O. 1937, c. 299, s. 79.

Inspection
of muni-
cipality.

82. The medical officer of health of any municipality, or any inspector or other person in the employ of the local board acting under his instructions, or any member of a local board may enter, inspect and examine at any time of the day or night, as often as he thinks necessary, any premises within the municipality for the purpose of carrying out the provisions of this Act, and may take such action as he deems necessary for carrying out the said provisions, and any person in charge of such premises for the time being shall render such aid to the medical officer of health or other person as may be necessary to make such inspection or examination. R.S.O. 1937, c. 299, s. 80.

Care of aged
and infirm
persons.

83. Where a medical officer of health, inspector or other person in making any inspection or examination under section 82 finds that any premises are used for the accommodation of aged or infirm persons, or children between the ages of three years and sixteen years, for gain or reward, he may give such orders or directions as, in his opinion, are necessary to ensure that such persons receive proper care and treatment, and in the event that his orders and directions are not carried out, he may order that the premises cease to be used for such accommodation. 1945, c. 17, s. 5; 1950, c. 61, s. 6.

Duty of
medical
health
officer.

84.—(1) Every medical officer of health shall ensure that the municipality or location for which he is appointed is regularly inspected in order to prevent nuisances or to abate any existing nuisance.

Order for
cleansing.

(2) If upon such examination he finds any premises in a filthy or unclean state, or that any matter or thing is there which, in his opinion, may endanger the public health, he may order the owner or occupant of the premises to cleanse the premises and to remove or destroy what is so found therein. R.S.O. 1937, c. 299, s. 81.

Where
owner
unknown or
non-
resident.

85. Where the owner of any premises wherein a nuisance exists is unknown or does not reside in the municipality, and the premises are unoccupied or the occupant is unable to remove the nuisance, the medical officer of health or the local board may, without previous notice, immediately cause the nuisance to be abated. R.S.O. 1937, c. 299, s. 82.

Disposition
of articles
removed.

86. Where under the provisions of this Act, the regulations or any municipal by-law, a local board or any medi-

cal officer of health or sanitary inspector removes anything which is likely to be injurious to or to become or cause or is a nuisance, such thing shall be subject to the disposition of the local board, or, if the officer is acting under a by-law of a municipal council, shall be subject to the disposition of the council, and the owner of such thing shall have no claim in respect thereof. R.S.O. 1937, c. 299, s. 83.

87.—(1) Wherever the local board or medical officer of health is satisfied of the existence of a nuisance, the medical officer of health shall serve a notice on the person by whose act, default or sufferance the nuisance arises or continues, or, if such person cannot be found, on the owner or occupier of the premises on which the nuisance exists or from which the same arises, requiring him to abate the same within a time to be specified in the notice, and to execute such works and do such things as may be necessary for that purpose.

Service of notice requiring abatement of nuisance.

(2) Where the nuisance arises from the want or the defective construction of any structural convenience, or where there is no occupier of the premises, notice shall be served on the owner.

Service on owner when required.

(3) Where the person causing the nuisance cannot be found, and it is clear that the nuisance does not arise or continue by the act or default of the owner or occupier of the premises, and it is therefore improper that the owner or occupier should be required to abate it, the local board shall abate the nuisance at the expense of the corporation of the municipality. R.S.O. 1937, c. 299, s. 84.

Where owner and occupant not in fault.

88. Where a nuisance appears to be wholly or partially caused by some act or default committed or taking place without the municipality, the local board of the municipality affected thereby shall cause an inspection to be made, and when necessary shall take or cause to be taken against the person by whose act or default the nuisance is caused in whole or in part any proceedings authorized by this Act in relation to nuisances with the same incidents and consequences as if such act or default were committed or took place wholly within its jurisdiction. R.S.O. 1937, c. 299, s. 85.

Where cause of nuisance out of municipality.

89.—(1) If, on investigation by the local board, any nuisance is found to exist, and if, after the board has required the removal or abatement of the same within a specified time, the board finds that default in removal or abatement has been made and the case appears to the local board to involve the expenditure or loss of a considerable sum of money or serious interference with any trade or industry or other considera-

Where consideration of difficulty involved.

tions of difficulty, the Department at the request of the local board may investigate and report upon the case.

Application
to judge of
Supreme
Court.

(2) If the report of the Department recommends the removal or abatement of the nuisance, the local board or any ratepayer residing in the municipality, or within a mile thereof, may apply to a judge of the Supreme Court for an order for the removal or abatement of the nuisance, and to restrain the proprietors of any such industry from carrying on the same until the nuisance has been abated to the satisfaction of the Department, and the judge may make such order upon the report of the Department or upon such further evidence as he may deem meet.

Application
of Rev. Stat.,
c. 189.

(3) *The Judges' Orders Enforcement Act* shall apply to every order made by a judge under this section. R.S.O. 1937, c. 299, s. 86.

Expenses in Respect of Abatement of Nuisance

Where
owner or
occupier
neglects to
abate.

90.—(1) Where the owner or occupier of any premises in which a nuisance exists fails, after due notice, to abate the same, the medical officer of health or sanitary inspector may enter upon the premises and take such steps as may be necessary to abate the nuisance.

Recovery of
expenses.

(2) All reasonable costs and expenses incurred in abating a nuisance shall be deemed to be money paid for the use and at the request of the person by whose act, default or sufferance the nuisance was caused, but shall be recoverable from both the owner and the occupier for the time being of the premises.

Collection of
expenses as
taxes.

(3) If the costs and expenses incurred in abating the nuisance are not paid by the owner or occupier within one month after a demand of payment, a statement of the amount of the costs and expenses and of the person by whom and the premises in respect of which the same are payable, shall be delivered to the clerk of the municipality who shall insert the amount in the collector's roll, and the same may be collected in like manner as municipal taxes.

Occupier's
right to
deduct pay-
ment from
rent.

(4) The occupier for the time being of the premises may deduct any money recovered or collected from him which, as between him and the owner, the latter ought to pay, out of the rent then due or from time to time becoming due in respect of the premises.

Limit of
amount re-
coverable
from
occupier.

(5) An occupier shall not be required to pay any further sum than the amount of rent for the time being due from him, or which, after demand of such costs or expenses, and after

notice not to pay his landlord any rent without first deducting the amount of such costs or expenses, becomes payable by the occupier, unless he refuses truly to disclose the amount of his rent and the name and address of the person to whom it is payable, and the burden of proof that the sum demanded from the occupier is greater than the rent due by him at the time of such notice, or which has since accrued, shall be on the occupier. R.S.O. 1937, c. 299, s. 87.

91.—(1) No determination or order of the Department or of a local board for the removal or abatement of a nuisance shall be enforced except by order of a judge of the Supreme Court where such removal or abatement involves the loss or destruction of property to the value of \$2,000 or more. Where application in respect of nuisance must be to Supreme Court.

(2) The order may be made upon the application of the Department or of the local board. R.S.O. 1937, c. 299, s. 88. Application for order.

OFFENSIVE TRADES

92. Any person who without the consent of the local board or of the municipal council establishes any of the following trades or businesses or manufactures: Restriction on establishment of offensive trades.

- (a) blood boiling;
- (b) bone boiling;
- (c) refining coal oil;
- (d) extracting oil from fish;
- (e) storing hides;
- (f) soap boiling;
- (g) tallow melting;
- (h) tripe boiling;
- (i) slaughtering animals;
- (j) tanning hides or skins;
- (k) manufacturing gas;
- (l) manufacturing glue;
- (m) fertilizers from dead animals, from human or animal waste; or
- (n) any other trade, business or manufacture, which is or may become offensive, or which is by the regulations declared to be a noxious or offensive trade, business or manufacture,

shall be guilty of an offence and liable to a penalty of not less than \$100 and not more than \$250 in respect of the establishment thereof, and a penalty of not less than \$20 for every day on which, after notice in writing by the local board or an officer thereof to desist, such business, trade or manufacture is carried on, whether there has or has not been any conviction in respect to the establishment thereof. R.S.O. 1937, c. 299, s. 89.

Storing
rags, bones,
etc.

93. Any person who keeps or stores any rags, bones, junk, bottles, scrap iron or other metals, or other refuse within any municipality, except on premises approved of by the medical officer of health, shall be guilty of an offence and liable to a penalty of not less than \$10 and not more than \$50, and the continuance of the offence for each week after conviction shall be considered a separate offence. R.S.O. 1937, c. 299, s. 90 (1).

MEDICAL AND DENTAL INSPECTION IN SCHOOLS

Interpre-
tation.

94.—(1) For the purposes of this section and section 95, “school board” means any board having, under the authority of statute, charge over a public, separate, continuation, high or vocational school. R.S.O. 1937, c. 299, s. 91 (1); 1940, c. 22, s. 5.

Agreement
for medical
and dental
inspection
of school
pupils.

(2) Any school board may enter into an agreement with the local board of any municipality or health unit to provide for the medical and dental inspection and dental treatment by the local board of the pupils of the school or schools under the charge of the school board situate in the municipality or health unit for which such local board is established. R.S.O. 1937, c. 299, s. 91 (2); 1943, c. 24, s. 4; 1944, c. 48, s. 4.

Power of
local board.

(3) Where an agreement is entered into by a local board under subsection 2, it shall have full power and authority to and, until otherwise determined by the school board, shall provide medical and dental inspection of the pupils of the schools mentioned in the agreement in accordance with this or any other Act relating thereto and any regulations made under this or any such other Act, and shall do and perform all acts, matters and things necessary for the purpose.

Agreement
need not
apply to all
schools.

(4) It shall not be necessary for the purposes of subsection 2 that any agreement entered into pursuant thereto shall provide for medical and dental inspection of the pupils of all schools in the charge of a school board or for all the schools in a municipality, but the same may relate to the pupils only of any one or more of such schools.

When local
board must
provide
inspection.

(5) Where any school board is desirous of entering into an agreement with a local board under subsection 2 and

the local board refuses to enter into the same, the Minister, upon the application of the school board and after hearing the representations of the local board and if satisfied that the standards established under the authority of this Act for medical and dental inspection of pupils can be provided for, may direct that the local board shall enter into the necessary agreement and provide for such inspection. R.S.O. 1937, c. 299, s. 91 (3-5).

95.—(1) Any school board may enter into an agreement with any county to provide for the employment by and at the expense of the county of public health nurses, school medical officers and dental officers in the schools under the control of the school board. 1940, c. 22, s. 6, *part*; 1944, c. 48, s. 5 (1).

(2) Where an agreement is entered into pursuant to this section and no school medical officer is appointed by the county, the medical officer of health having jurisdiction in the place where the schools are located shall direct and control the activities of the public health nurses so employed. 1940, c. 22, s. 6, *part*; 1944, c. 48, s. 5 (2).

(3) Where an agreement does not provide for a service in the schools of all the local municipalities forming part of the county, the county may levy the cost against the local municipalities in which the service is provided. 1945, c. 17, s. 6.

INSPECTION OF LODGING HOUSES, LAUNDRIES, ETC.

96.—(1) The medical officer of health or any sanitary inspector acting under his instructions may, at any time of the day or night, as often as he thinks necessary, enter into a lodging house, tenement where rooms are rented, or a laundry where the owner or employees reside upon the premises, or other building where he has reason to suspect that the same are overcrowded or occupied by more persons than is reasonably safe for the health of the occupants.

(2) If upon such examination it is found that the premises are occupied by more persons than is reasonably safe for the health of the occupants, and that the sleeping rooms are such that 600 cubic feet of air space cannot be provided for each occupant, or that the rooms or premises occupied by them are in a filthy or unclean state, or that any matter or thing is there which, in the opinion of the medical officer of health founded on his own inspection or on the report of the sanitary inspector, may endanger the public health or the health of the occupants, the medical officer of health may order the owner or occupant to remove the inmates from the premises, or to remove that which causes the premises to be filthy or un-

clean, and put the rooms in a condition fit for human habitation. R.S.O. 1937, c. 299, s. 92.

Placarding
premises.

97. Where in the opinion of the medical officer of health any premises are so situated, so constructed or so improperly lighted, or in any other respect of such a character or in such a condition as to be unfit for human habitation or dangerous to health, he may cause the premises to be closed, and may affix a notice thereon in a prominent place setting forth the reason for the closing and that the premises are closed by order of the medical officer of health, and no person shall pull down or deface such notice or use the premises closed as a dwelling or cause the same to be so used. R.S.O. 1937, c. 299, s. 93.

REGULATION AND LICENSING OF BARBER SHOPS AND HAIRDRESSING ESTABLISHMENTS

Regulation
of barber
shops, etc.

98.—(1) The council of any city or town or of any township bordering on a city having a population of not less than 100,000, or of a township in unorganized territory having a population of 15,000, may pass by-laws for regulating the operation of barber shops and hairdressing establishments, and for licensing the owners of such shops and hairdressing establishments, and for revoking the licence upon breach of any regulation imposed by the by-law. R.S.O. 1937, c. 299, s. 94 (1); 1939, c. 37, s. 4; 1941, c. 45, s. 5.

Approval of
by-law by
Department.

(2) The by-law shall not take effect until approved in writing by the Department, and when so approved shall be in force notwithstanding any provision of this Act or other regulation imposed under authority of this Act to the contrary. R.S.O. 1937, c. 299, s. 94 (2).

INSPECTION OF DAIRIES, CHEESE FACTORIES, DAIRY FARMS, ETC.

Inspection
of dairies,
etc.

99.—(1) The medical officer of health may make or cause to be made by a food and dairy inspector or other competent person approved by the Department, an inspection, periodical or otherwise, of all dairies, cheese factories, creameries, dairy farms, slaughter-houses and other lands or premises wherein or from which any milk, cream, cheese, butter, meat or other product intended for human consumption is produced, handled, stored, made, processed, packed, bottled, distributed or delivered, and if upon or as a result of any such inspection he finds that any such building, land or premises, or the equipment, machinery, works or other part of the plant therein, or any other matter or thing therein is in a filthy or unclean state or that the operations carried on therein are not, or cannot be

carried on in a sanitary manner, or that persons are employed therein who from incompetency, uncleanness or otherwise are not proper to be employed therein so that from, or by reason of any such matters or things, the public health may be endangered, he may order the owner or occupant of such building, land or premises to remedy such matters or things to his satisfaction, and until such time as he is satisfied that such matters or things are remedied he may prohibit or regulate the distribution, delivery, sale or offering for sale of any products from such building, land or premises. R.S.O. 1937, c. 299, s. 95 (1); 1941, c. 45, s. 6 (1).

(2) When any of the products mentioned in subsection 1 are distributed or delivered from or are made in any of the buildings, land or premises mentioned in that subsection and are sold or offered for sale in any municipality other than the one in which the building, land or premises is situate, the medical officer of health of such other municipality may with respect thereto exercise the powers conferred by subsection 1 and may prohibit or regulate the distribution, delivery, sale or offering for sale of such products in the municipality in which he is the medical officer of health. R.S.O. 1937, c. 299, s. 95 (2). Where distribution, delivery, etc., is made in other centres.

(3) The owner or occupant of any building, land or premises dissatisfied with any order, prohibition or regulation made by a medical officer of health under this section may within seven days of notice thereof being served upon him personally, or sent by registered mail, at his last known address, or at the building, land or premises in question, appeal from such order, prohibition or regulation to the Minister whose decision in the matter shall be final and not subject to question or review in any court. Appeal from order, etc.

(4) Any person contravening the terms of any order, prohibition or regulation made under this section shall be guilty of an offence and liable to a penalty of not less than \$5 and not more than \$100 for each offence, and any product distributed, delivered, sold or offered for sale in contravention of any such prohibition or regulation may upon the order of the convicting justice or magistrate be confiscated and destroyed. R.S.O. 1937, c. 299, s. 95 (4, 5). Penalty.

PASTEURIZATION OF MILK

100.—(1) No person shall sell, offer for sale, or deliver in any city or town, or in any other municipality or other area to which, by Order in Council made upon the recommendation of the Minister, this section is made applicable, milk which has not been pasteurized in a pasteurization plant to which the No person to sell unpasteurized milk.

Department has issued a certificate of approval in the prescribed form.

Exceptions. (2) This section shall not apply to milk brought into any such city, town, municipality or area by the producer and sold by wholesale to a distributor, nor to products of milk prepared in a plant and by methods approved by the Department. 1938, c. 30, s. 8, *part*.

Seizure of milk. (3) Any medical officer of health, sanitary inspector, food and dairy inspector and any person authorized by a medical officer of health may, without laying any information or obtaining any warrant, seize and remove any milk sold, offered for sale or delivered, including any container in which such milk is found, for the purpose of causing an analysis of such milk to be made. 1938, c. 30, s. 8, *part*; 1941, c. 45, s. 7.

Penalty. (4) Any person who contravenes any of the provisions of this section shall be guilty of an offence and liable to a penalty of not less than \$25 and not more than \$500. 1938, c. 30, s. 8, *part*.

INSTALLATION OF PUBLIC WATER SUPPLY

Plans to be submitted to Department. **101.**—(1) Whenever the council of any municipality or any municipal board or commission or any company or person contemplates the establishment of, or the extension of, or any change in an existing waterworks system, they shall submit the plans, specifications and an engineer's report of the water supply and the works to be undertaken, together with such other information as may be deemed necessary to the Department, and no such works shall be undertaken or proceeded with until the source of supply and the proposed works have been approved by the Department.

Department may direct change in plans. (2) The Department, upon the application for approval, may direct such changes to be made in the source of supply or in the plans submitted as it may deem necessary in the public interest. R.S.O. 1937, c. 299, s. 96.

Department to have supervision of streams, etc. **102.**—(1) The Department shall have the general supervision of all springs, wells, ponds, lakes, streams or rivers used as a source for a public water supply or for agricultural, domestic or industrial purposes with reference to their purity, together with the waters feeding the same, and shall examine them from time to time when the necessity for such examination arises, and inquire what, if any, pollution exists and the causes thereof.

Inquiry by Department as to complaints of pollution of waters. (2) The Department may inquire into and hear and determine any complaint made by or on behalf of a riparian pro-

prietor entitled to the use of water, that any industrial waste or any other polluting material of any kind whatsoever which either by itself or in connection with other matter may corrupt or impair the quality of the water or may render such water unfit for accustomed or ordinary use, has been placed in, or discharged into such water, or placed or deposited upon the ice thereof, or placed or suffered to remain upon the bank or shore thereof.

(3) The Department may make a report upon such complaint and as to what remedial measures, if any, are required in respect of any alleged injury or invasion of right as it may deem just. Report of Department.

(4) Where the report of the Department recommends the removal or degree of treatment of any such polluting material, any riparian proprietor interested may apply to a judge of the Supreme Court or a county judge by way of originating notice, according to the practice of the court, for an order for the removal or abatement of the injury in terms of the report of the Department and to restrain the proprietors of the industry from carrying on the same, or the offending party or parties from continuing the acts complained of until the injury or invasion of right has been abated to the satisfaction of the Department. Application to court on report of Department.

(5) The judge may make such order upon the report of the Department or upon such further evidence as he may deem proper and on such terms and conditions as he may deem proper. R.S.O. 1937, c. 299, s. 97. Judge may act on report of Department or further evidence.

103.—(1) No garbage, excreta, manure, vegetable or animal matter or filth shall be discharged into or be deposited in any of the lakes, rivers, streams or other waters in Ontario or on the shores or banks thereof, and no industrial or other wastes dangerous or liable to become dangerous to health or to become a nuisance or to impair the safety, palatability or potability of the water supply of any municipality or riparian owner, shall be discharged into or be deposited in any of the lakes, rivers, streams or other waters of Ontario, or on the shores or banks thereof. Depositing filth, etc., in provincial waters.

(2) The owners and officers of boats and other vessels plying upon any such lake, river, stream or other water shall so dispose of the garbage, excreta, manure, vegetable or animal matter or filth upon such boats or vessels as not to create a nuisance or enter or pollute such lake, river, stream or other water. Disposal of offensive matter on boats.

(3) Residents of a health resort or summer resort shall so dispose of garbage, excreta, manure, vegetable or animal mat- Residents of summer resorts.

ter or filth as not to create a nuisance or permit of its gaining entrance to or polluting any such lake, river, stream or other water.

Penalty.

(4) Any person who contravenes any of the provisions of this section shall be guilty of an offence and liable to a penalty of not more than \$100. R.S.O. 1937, c. 299, s. 98.

Returns
from water-
works.

104. Water boards, water companies, water commissioners, the proper officers of any municipal corporation and any person making use as a source of water supply of any well or any other source within or partly within Ontario, and distributing the waters thereof for public, domestic or general uses, shall from time to time and whenever required by the Department make returns to the Department upon forms to be furnished by it of such matters as may be required by the Department and called for by such forms, and any such water board, water company, water commissioner, officer or other person who for the space of 30 days after being furnished with such forms, fails or neglects to make any such reports required shall be guilty of an offence and liable to a penalty of \$100. R.S.O. 1937, c. 299, s. 99.

Polluting
water
supply.

105.—(1) No sewage, drainage, domestic, commercial or factory refuse, excremental or other polluting matter of any kind whatsoever which either by itself or in connection with other matter corrupts, pollutes or impairs or may corrupt, pollute or impair the quality of the water of any source of public water supply for domestic use in any municipality, or which renders or may render such water injurious to health shall be placed in, deposited on, or discharged into the waters, or placed or deposited upon the ice of any such source of water supply, or be placed, deposited or discharged, or suffered to remain in, on or upon the bank or shore of any such source of water supply, or in, on or upon any lands adjacent to any such source, nor shall any person bathe or swim in the water of any such source of water supply.

Pollution
of land
adjacent
to water
supply.

(2) For the purposes of this section, land adjacent to a source of public water supply includes such surface area of land wherefrom by reason of the levels thereof or the nature and texture of the soils thereof, or rocks underlying the same, any corrupting, polluting or impairing effluent emanating from matter placed, deposited, discharged or remaining in, on or upon such land, would or may flow, percolate or seep into such source of water supply.

Defined
area,
notice of.

(3) The Department may, with respect to any source of public water supply, define and prescribe an area surrounding such source of water supply wherein none of the matters re-

ferred to in subsection 1 may be placed, deposited, discharged or suffered to remain, and give such notice of any area so defined and prescribed by publication or otherwise as the Department may deem necessary for the due protection of such source of water supply.

(4) Every person who contravenes any of the provisions of subsection 1, or who, within any area surrounding a source of public water supply after the same has been defined and prescribed by the Department, places, deposits, discharges or suffers to remain any of the matters referred to in subsection 1, shall be guilty of an offence and for each offence shall be liable to a penalty of not less than \$5 and not more than \$100 and each week's continuance of the offence after notice by the Department or any local board to discontinue the offence, shall constitute a separate and subsequent offence for which he shall be liable to a penalty of not less than \$10 and not more than \$100. R.S.O. 1937, c. 299, s. 100. ^{Penalty.}

SEWERAGE SYSTEM AND SEWAGE

106.—(1) In this section, "sewerage project" means common sewer, system of sewerage or sewage disposal plant or any alteration or extension thereof. ^{Interpre-}

(2) The construction of a sewerage project by the council of a municipality or by any board or commission created or established by a municipal corporation pursuant to statutory authority, or by any company or person, shall not be commenced until the approval of the Department has been obtained. ^{Approval of Department as to sewerage project.}

(3) Every application to the Department for approval under subsection 2 shall be accompanied by plans of and specifications for the sewerage project and such other material and information as the Department may require. ^{Plans and specifications.}

(4) The Department shall cause inquiry to be made as to the extent of the sanitary requirements which the construction of the sewerage project is intended to meet and whether such sewerage project is likely to prove prejudicial to the health of the inhabitants of the municipality in which it is to be constructed or of any other municipality. ^{Inquiry by Department.}

(5) The Department may make any suggestion or amendment of the plans and specifications or may impose any condition with regard to the construction of such sewerage project or the disposal of sewage therefrom that may be deemed necessary or advisable in the public interest. ^{Amendment of plans at instance of Department.}

(6) The Department may from time to time modify or alter the terms and conditions as to the disposal of sewage ^{Modification, etc., of order.}

imposed by it, and the report or decision of the Department shall be final, and it shall be the duty of the municipal council, board, commission, company or person responsible for the operation of the sewerage project to give effect thereto.

Returns to
Department.

(7) Whenever required by the Department, the municipal council, board, commission, company or person responsible for the operation of the sewerage project shall make returns to the Department upon forms to be furnished by it of such matters as may be required by the Department and called for by such forms, and in case of default for 30 days after receipt of such forms, shall be guilty of an offence and liable to a penalty of \$100.

Urban
sewerage
project.

(8) A sewerage project of an urban municipality may, with the approval of the Department, be continued into or through, or be situate in an adjoining township municipality, but before approving of any such work, the Department shall give notice to the clerk of the township and shall hear and consider any objections which the council of the township or the residents therein may make to the location of the works.

Powers of
urban
municipality
after
approval of
Department.

(9) When the approval of the Department has been obtained, the corporation of the urban municipality may enter upon, take and use such lands in the township as may be necessary, and for that purpose shall have and may exercise the same powers within the township as it has within its own municipality, and paragraph 90 of subsection 1 of section 388 of *The Municipal Act* shall not apply.

Rev. Stat.,
c. 243.

Varying
approval.

(10) The Department may withdraw, amend or vary any approval given by it under subsection 8 or any order or certificate made by it, and may approve of a different or other sewerage project or a different or other location therefor.

Hearing and
notice to
municipality
affected.

(11) Before acting under subsection 10, the Department shall notify the clerk of the township municipality in which the sewerage project is located or into or through which it is continued or in which it is proposed to locate the sewerage project, or into or through which it is proposed to continue it, and the Department shall hear and consider any objections which the council of the township or any resident therein may make to the erection of the said work or any part therefor.

Application
to Ontario
Municipal
Board.

(12) Where the Department has made an order or report under subsections 8 to 11, the corporation of the urban municipality, before proceeding with the work, shall apply to the Ontario Municipal Board for an order prescribing the manner in which the work may be carried on, and notice of the application shall be given to the township municipality and to any resident therein whose property is or may be affected by the proposed works.

(13) Upon the application, the Ontario Municipal Board may make an order,

Powers of
Ontario
Municipal
Board.

- (a) stopping up and closing any highway, road or road allowance, temporarily or permanently for the purpose of allowing the proposed work to be carried on, and vesting it in the urban municipal corporation, and providing for the opening of other roads, highways and road allowances for the use and convenience of the residents of the township municipality in lieu of the roads, highways and road allowances so stopped up and closed, and the provisions of section 89 of *The Registry Act* shall not apply;

Rev. Stat.,
c. 336.

- (b) imposing such terms and conditions upon the urban municipality with respect to the construction and operation of the proposed works as the Board may deem just;
- (c) ordering that any building restrictions, covenants running with the land or any limitations placed upon the estate or interest of any person or corporation in any lands upon or through which it is proposed that a sewerage project may be constructed or continued, shall be terminated and shall be no longer operative or binding upon or against any person or persons, and direct that any such order be registered under *The Registry Act*;
- (d) fixing the compensation to be paid for lands taken or injured in the construction of such works.

(14) The registration of any order under clause c of sub-section 13 shall be a bar to any action or proceeding taken by any person or corporation claiming any right or benefits under or by reason of any such restrictions, covenants, interests, estate or title in the lands described in the order.

Registration
of order.

(15) The Ontario Municipal Board shall have jurisdiction to inquire into and hear and determine any application by or on behalf of any person or corporation interested complaining that any urban municipality constructing, maintaining or operating any sewerage project, or having the control thereof,

Jurisdiction
of Board
as to claims
for damages.

- (a) has failed to do any act, matter or thing required to be done by an Act or regulation, order or direction, or by any agreement entered into by the corporation; or
- (b) has done or is doing any act or is failing to do any act and that such act or failure is causing depreciation, loss, injury or damage to any property of any owner, and the Board may make any order, award or finding in respect of any claim of damage or injury, as it may deem just.

All claims
to be deter-
mined by
Board.

(16) The jurisdiction of the Ontario Municipal Board under this section shall be conclusive and all claims for injury or damages or any other matter arising under the provisions of this section relating to the construction by an urban municipality of a sewerage project in a township municipality shall be heard and determined by the Board, and *The Ontario Municipal Board Act*, so far as it is practicable, shall apply to every application and order made to or by the Ontario Municipal Board under this section.

Rev. Stat.,
c. 262.

Agreement
between
urban and
township
municipali-
ties.

(17) Where a sewerage project is constructed by an urban municipality in a township, the council of the urban municipality and the council of the township may enter into an agreement for the connecting with and use of such sewerage project by the township municipality and residents thereof on such terms as may be mutually agreed upon.

Where no
agreement.

(18) Where the corporations of the urban municipality and the township do not agree as provided in subsection 17 as to the right of the township and the inhabitants to make use of such sewerage project or as to the terms of such use, the Ontario Municipal Board upon the application of the corporation of the township may make an order conferring the right to make use of the sewerage project upon the township and upon the inhabitants thereof whose properties are adjacent thereto, and the terms and conditions as to such usage.

Township
may collect
agreed
amount
as taxes.

(19) The corporation of the township may assess and collect as taxes whatever amount may be agreed upon with the urban municipality for every sewer connection to the sewerage project or any connection therewith under subsection 18 in the same manner and to the same extent as if the same constituted a public utility owned by the township.

Right to
connect with
plant.

(20) Where the township does not apply to the Ontario Municipal Board as provided in subsection 18, the owner of any residence or dwelling in the township in proximity to the sewerage project or to any connection therewith, may apply to the Board for an order declaring that such owner shall have the right to connect his property with the sewerage project or any connection therewith. 1943, c. 24, s. 5.

BY-LAWS FOR BORROWING FOR WATERWORKS AND SEWERAGE

By-law for
issue of
debentures.

107.—(1) No by-law shall be passed for raising money for any of the purposes mentioned in sections 101 and 106 until the proposed water supply or sewerage system, as the case may be, has been approved by the Department and such approval has been certified under the hand of the Minister.

By-law to
recite
approval.

(2) The by-law shall recite the approval of the Department. R.S.O. 1937, c. 299, s. 102.

108. The Ontario Municipal Board may, pursuant to *The Ontario Municipal Board Act*, approve any by-law for raising money for any of the works or purposes mentioned in sections 101 and 106 and may certify to the validity of debentures issued thereunder upon the presentation of a certificate of the Department approving the said works, notwithstanding that the certificate of approval by the Department was not obtained prior to the passing of the by-law or that the by-law does not contain a recital of such approval. R.S.O. 1937, c. 299, s. 103.

Approval of
by-laws by
Ontario
Municipal
Board.
Rev. Stat.,
c. 262.

109.—(1) Where the Department reports in writing that it is of opinion that it is necessary in the interest of the public health that a waterworks system or an adequate water purification plant, or a sewer or a sewerage system, or an adequate sewage treatment plant should be established or continued, or that any existing waterworks system, water purification plant, sewer or sewerage system, or sewage treatment plant should be improved, extended, enlarged, altered, renewed or replaced, it shall not be necessary to obtain the assent of the electors to any by-law for incurring a debt for any of such purposes.

Assent of
electors not
required.

(2) Where the Department has reported as provided by subsection 1, the council of a municipality shall forthwith pass all necessary by-laws for the establishment of the works reported upon, and the corporation of the municipality shall immediately commence the work and carry it to completion without unnecessary delay.

Council on
report of
Department
to pass
by-laws and
carry out
works.

(3) The by-law shall not be finally passed until the approval of the Department has been obtained to the work to be done as hereinbefore provided and shall recite such approval. R.S.O. 1937, c. 299, s. 104.

By-law not
to be passed
until
approved.

110.—(1) The council of a city having a population of not less than 100,000 may, with the approval of the Ontario Municipal Board, provide by by-law for the issue of debentures for the purpose of raising money to procure investigations and reports as to the method of sewage treatment and disposal best suited to meet the needs of the municipality.

Issuing
debentures
to defray
expenses of
investigation
as to
sewage
disposal.

(2) It shall not be necessary to procure the assent of the electors to any by-law passed pursuant to subsection 1.

Assent of
electors not
required.

(3) Instead of making a separate issue of debentures to defray the expenses of such investigation and report, the council may provide that such expenses shall be included in the cost of the work and be paid out of the proceeds of any debentures issued therefor. R.S.O. 1937, c. 299, s. 105.

Payment
out of
debentures
issued for
work.

111. Every waterworks system, water purification plant, sewer and sewerage system and sewage treatment plant, and

Repairs and
renewals,
etc.,
powers of
Department.

appurtenances thereof, established for public use, shall at all times be maintained, kept in repair and operated so as to best secure the protection of the public health, and in such manner and for such purposes as may be directed by any special order of the Department or by the regulations. R.S.O. 1937, c. 299, s. 106.

Penalty

112. Any municipal corporation or body or person refusing or neglecting to carry out the provisions of either section 109 or 111, after notice from the Department so to do, shall be guilty of an offence and liable to a penalty of \$100 for every day upon which such default continues. R.S.O. 1937, c. 299, s. 107.

ICE SUPPLIES

Regulation
of ice supply
by local
board.

113.—(1) The local board of a municipality in which supplies of ice are obtained, sold and stored may adopt such regulations regarding the source of supply and the place of storage of the same as are, in its opinion, best adapted to secure the purity of the ice and prevent injury to the public health, and for the supervision of ice supplies, whether obtained within or without the municipality, whenever the ice is intended for use within the municipality in which the board has jurisdiction.

Permit for
cutting ice.

(2) No ice shall be cut from any lake, river, stream, pond or other water for the purpose of being sold or used for domestic purposes unless a permit therefor has been first obtained from the local board, and no person shall sell or deliver or dispose of in any way any ice for domestic purposes without first obtaining a permit therefor from the local board, and the local board may refuse a permit, or revoke any granted by it, when in its judgment the use of any ice cut or sold or to be cut or sold for domestic purposes under the permit is or would be detrimental to the public health.

Local board
to enforce
regulations.

(3) Every local board shall enforce the regulations of the Department, and may prohibit the sale and use of any ice within the municipality, when, in its judgment, the ice is unfit for use or the use of it would be detrimental to the public health.

Prohibiting
distribution
in municip-
ality.

(4) The local board may prohibit, and, through its officers, prevent the bringing of any such ice for the purpose of sale or use for domestic purposes into the municipality, and may in the same manner prevent the sale of any such ice for domestic purposes within the municipality, when, in its judgment, the ice is unfit for use or the use of it would be detrimental to the public health. R.S.O. 1937, c. 299, s. 108.

INSPECTION OF ANIMALS, MEAT, ETC.

114.—(1) A medical officer of health, food and dairy inspector or sanitary inspector may at all reasonable times ^{Inspection of food supplies.} inspect or examine any animal, carcass, meat, poultry, game, flesh, fish, fruit, vegetables, grain, bread, flour, milk or other article exposed for sale or deposited in any place for the purpose of sale, or for preparation for sale, and intended for food for man, and if such article appears to him to be diseased or unsound or unwholesome or unfit for food for man, he may seize and carry away the article, or cause it to be seized and carried away, in order that it may be destroyed or so disposed of as to prevent it from being exposed for sale or used as food for man. R.S.O. 1937, c. 299, s. 109 (1); 1941, c. 45, s. 8.

(2) The person to whom the article belongs, or did belong ^{Penalty.} at the time of exposure for sale, or in whose possession or on whose premises the article was found, shall be guilty of an offence and liable to a penalty of not less than \$10 and not more than \$100 for every such article unless he proves that he did not know and had no means of knowing the condition of the article.

(3) Where it is charged upon any prosecution under this section that any animal, or the meat or milk of any animal, is affected with any disease named in section 2 of the *Animal Contagious Diseases Act* (Canada), or with wens, clyers, actinomycosis or osteosarcoma or any disease of a cancerous nature, the medical officer of health may make, or cause to be made, or request the Department to make, such scientific examination of the animal, meat or milk suspected of being diseased as may enable it to be determined whether or not such disease exists, and the Minister may instruct an officer of the Department to make such examination or cause the same to be made. ^{Scientific examination where existence of certain diseases charged. R.S.C. 1927, c. 6.}

(4) The expenses of such examination, together with a fee ^{Expenses and fee on examination.} not exceeding \$10, shall be certified by the Deputy Minister and shall be payable by the treasurer of the municipality in which the animal, meat or milk is found.

(5) In any prosecution under this section the burden of ^{Burden of proof.} proof that any article in respect of which the charge is laid is not kept for sale or intended for food for man shall be upon the person charged.

(6) No person, firm or corporation shall manufacture ^{Permit required for manufacturing or bottling of carbonated water, etc.} or bottle for sale as food for man any beverage such as carbonated water, natural and artificial mineral water, spring and distilled water, unfermented wine or cordials, concentrated syrup, extracts, essence, fruit juice or any dry substance in

concentrated form for the manufacture of any beverage, brewed ginger beer, or other non-intoxicating drink, without first obtaining a permit in writing so to do from the medical officer of health and the local board of the municipality in which the manufacturing or bottling is to be conducted.

Cancellation
of permit.

(7) When the medical officer and local board of health desire to cancel a permit, they shall give notice in writing of the cancellation to the person or persons or the agent of the person or persons to whom the permit was issued, and the cancellation shall not become effective until 30 days after receipt of the notice by the said person, persons or their agent.

Grounds for
refusal or
revocation.

(8) Such permit may be refused and if granted may be cancelled or revoked for failure to comply with the regulations pertaining to the building, equipment and methods of manufacture or bottling of such beverage, or if such beverage upon analysis is found to be contaminated or contain any injurious ingredients, or for other cause is found to be unfit for food. R.S.O. 1937, c. 299, s. 109 (2-8).

Feeding cer-
tain things
to hogs.

115.—(1) Whenever any medical officer of health, food and dairy inspector or sanitary inspector knows or has reason to believe that blood, offal or the meat of any dead animal which has not been previously boiled or steamed when fresh or before becoming putrid or decomposed, or which, although boiled or steamed, is putrid or decomposed, has been or is being fed to hogs, he may seize and carry away the hogs, whether dead or alive, or otherwise detain them so as to prevent their removal. R.S.O. 1937, c. 299, s. 110 (1); 1941, c. 45, s. 9.

Penalty.

(2) The owner, or person in charge of, or any person found feeding any such blood, offal or meat to hogs shall be guilty of an offence and liable to a penalty of not less than \$5 and not more than \$50, and upon his conviction, the medical officer of health shall order the hogs, whether dead or alive, to be destroyed or so disposed of as to prevent them from being exposed for sale or used for food for man.

Burden of
proof.

(3) In every prosecution under this section in which it is proved that such blood, offal or decomposed meat was found upon the premises, the burden of proof that the same was not intended to be fed to hogs shall be upon the person charged. R.S.O. 1937, c. 299, s. 110 (2, 3).

Cooking of
garbage.

116. Any person who cooks garbage or other refuse which has been collected or otherwise obtained from other persons, except on premises approved by the medical officer of health, shall be guilty of an offence and liable to a penalty of not less than \$10 and not more than \$50, and the continuance of the

offence for each week after conviction shall be considered a separate offence. 1939, c. 37, s. 5.

117.—(1) Every butcher and other person selling meat shall on the request of the medical officer of health make an affidavit as to the place at which the slaughter of his meat is carried on, and where it is without the municipality, such place shall be open to inspection by the medical officer of health, food and dairy inspector or by an inspector appointed by the council of the municipality in which the meat is offered for sale. R.S.O. 1937, c. 299, s. 111 (1); 1941, c. 45, s. 10. Inspection of slaughter houses.

(2) In the case of the refusal or neglect to make such affidavit or permit such inspection, the local board may give notice in writing to the butcher or other person to discontinue the sale of meat in the municipality. Notice to discontinue sale.

(3) If after receiving such notice, the butcher or other person sells or offers for sale any meat in the municipality, he shall be guilty of an offence and liable to a penalty of not more than \$20. R.S.O. 1937, c. 299, s. 111 (2, 3). Penalty.

118.—(1) Any person who knowingly sells, or has in his possession with intent to sell as food for man, the meat of any calf less than three weeks old shall be guilty of an offence and liable to a penalty of not less than \$10 and not more than \$50. Killing or selling calves under three weeks old.

(2) In every prosecution under this section in which it is proved that the meat of any calf less than three weeks old was found upon the premises, the burden of proof that the same was not intended as food for man shall be upon the person charged. R.S.O. 1937, c. 299, s. 112. Burden of proof.

MUNICIPAL SLAUGHTER-HOUSES, ABATTOIRS, ETC.

119.—(1) The council of a city or town may by by-law provide for the establishment, within the municipality, or in an adjoining municipality, the council of which has by by-law sanctioned its establishment therein, of a public slaughter-house or abattoir with proper cattle-yards and pens in connection therewith for the proper keeping therein of animals intended for slaughter, and for charging fees for the use thereof. By-laws for establishing slaughter-houses, cattle-yards or pens.

(2) Every such slaughter-house, abattoir, cattle-yard and pen shall be constructed, equipped and regulated in conformity with the regulations. R.S.O. 1937, c. 299, s. 113. Regulation of slaughter-houses, etc.

120. The local board of the city or town by which the slaughter-house, abattoir, cattle-yard or pen is established Local board of health to have control.

shall have the supervision of it, and shall be responsible for the due carrying out of the regulations, and the costs of the supervision and inspection shall be paid from time to time by the treasurer of the city or town out of the fees charged, on the order of the local board. R.S.O. 1937, c. 299, s. 114.

Inspection.

121. Such local board may employ one or more persons, approved of by the medical officer of health, to inspect at the slaughter-house, abattoir, cattle-yard or pen all animals, carcasses and meat brought into the municipality and intended for food for man. R.S.O. 1937, c. 299, s. 115.

Inspection
of meat-
packing
establish-
ments.

122. Any meat-packing establishment shall be subject to inspection in the same manner as a municipal slaughter-house or abattoir. R.S.O. 1937, c. 299, s. 116.

USE OF FORCE—ASSISTANCE BY CONSTABLES, ETC.

Penalty for
hindering
officers.

123. Any person who obstructs, hinders, delays or prevents an officer of the Department, or any local board, or a member thereof, medical officer of health or sanitary inspector, or any person employed by or acting under the direction of any of them in the exercise of any of the powers conferred, or performance of any of the duties imposed upon them by this Act or by the regulations, or in carrying out any order lawfully given by them, shall be guilty of an offence and liable to a penalty of not less than \$25 and not more than \$100. R.S.O. 1937, c. 299, s. 117.

Calling for
assistance
of con-
stables, etc.

124. Whenever a local board or a member thereof, medical officer of health or sanitary inspector is required or empowered by this or any other Act or by the regulations or by a municipal by-law to do or to prevent or to direct or enforce the doing of anything, such board or member or officer or inspector may use such force and employ such assistance as is necessary to accomplish what is required, and may, when obstructed in so doing, call for the assistance of any constable or other person, and it shall be the duty of every constable so called upon to render such assistance. R.S.O. 1937, c. 299, s. 118.

PENALTIES AND RECOVERY THEREOF

Offences re
communi-
cable
diseases.

125.—(1) Any person who contravenes any of the provisions of sections 55 to 79 for which no other penalty is provided shall be guilty of an offence and liable to a penalty of not less than \$25 and not more than \$100.

Other
offences.

(2) Any person who contravenes any other provision of this Act or of the regulations or of any municipal by-law

passed under this Act, or wilfully disobeys or neglects to carry out any order or direction lawfully given by the Department, a local board, member of a local board, medical officer of health or sanitary inspector, unless it is otherwise provided, shall be guilty of an offence and liable to a penalty of not less than \$5 and not more than \$500.

(3) Where any person has been convicted of an offence Continuance of offence under this Act or under any regulation or by-law enacted or in force thereunder, and the offence is in the nature of an omission or neglect, or is in respect of the existence of a nuisance or other unsanitary condition which it is such person's duty to remove, or of the erection or construction of anything contrary to the provisions of this Act or of any regulation or by-law enacted or in force thereunder, then, if the proper authority in that behalf gives reasonable notice to the person to make good the omission or neglect, or to remove the nuisance or unsanitary condition, or to remove the thing which has been erected or constructed contrary to this Act or to such regulation or by-law, and default is made in respect thereof, the person offending may be convicted for such default, and shall be liable to the same punishment as was or might have been imposed for the original offence, and so on, from time to time, as often as after another conviction, a new notice is given and the default continues, and in case of a third or subsequent conviction, it shall not be necessary in the information, conviction or other proceedings to make any reference to any conviction except the first, or to any notice except that in respect of which the proceedings are then being taken.

(4) Every person who sells either publicly or privately any of the biological products supplied to the public free of charge by the Department shall be guilty of an offence and liable to a penalty of \$100, and in default of payment thereof shall be liable to imprisonment for a term of three months. Penalty for selling biological products supplied by Department. R.S.O. 1937, c. 299, s. 119.

(5) Every person who sells either publicly or privately Offence to sell reports. any report or information received from the Department relating to any test of water or milk, and every person who charges any fee for any such report or information shall be guilty of an offence and liable to a penalty of \$100, and in default of payment thereof shall be liable to imprisonment for a term of not more than three months. 1938, c. 30, s. 9.

126. Penalties imposed by or under the authority of this Act shall be recoverable under *The Summary Convictions Act* before a magistrate or two justices of the peace. Recovery of penalties. Rev. Stat., c. 379. R.S.O. 1937, c. 299, s. 120.

Application
of penalties.

127.—(1) Every penalty recovered under this Act where the prosecution is by or at the instance of the corporation of a municipality, or the local board, or the medical officer of health or other health officers of the municipality shall be paid to the treasurer of the municipality in which the offence was committed for the use of the local board.

Offences in
unorganized
territory.

(2) Where the prosecution is at the instance of the Department or of any provincial officer or where the offence was committed in territory without municipal organization, the penalty shall be paid to the Treasurer of Ontario. R.S.O. 1937, c. 299, s. 121.

Where
offence is
against Act
and by-law.

128. Where any act or omission is a violation of any express provision of this Act and is also a violation of a by-law of a municipality in respect of a matter over which the council of the municipality has jurisdiction, a conviction may be had under either the Act or the by-law, but a conviction shall not be made under both for the same act or omission. R.S.O. 1937, c. 299, s. 122.

Certificate
to be
evidence
of fact.

129. In any prosecution under this Act or the regulations, upon production of a certificate or report signed or purporting to be signed by a provincial analyst as to the analysis or ingredients of any milk or water, or any upholstered or stuffed articles including mattresses, quilts, covers, pillows and other bedding, furniture and dolls, such certificate or report shall be *prima facie* evidence of the facts stated therein and of the authority of the person giving or making the certificate and report without any proof of appointment or signature. 1938, c. 30, s. 10; 1940, c. 22, s. 7.

Certificate
of poverty
or inability
a bar to
prosecution.

130. Where any person who is unable from poverty or other sufficient cause to comply with any of the provisions of this Act, or of the regulations, gives notice of such inability to the medical officer of health, and the local board on examination is satisfied of such inability, the secretary thereof shall give his certificate to that effect, and such certificate shall be a bar to all proceedings against such person for a period of six months. R.S.O. 1937, c. 299, s. 123.

STATUTORY BY-LAW

Application
of enact-
ments in
Schedule B.

131.—(1) The by-law set out in Schedule B, hereinafter called the statutory by-law, and every amendment thereto, shall be in force in every municipality as if enacted by the council thereof, and the council of every municipality shall have authority to pass by-laws with the approval of the Department for making additional requirements in respect to any of the matters dealt with by the statutory by-law.

(2) The Department may permit the council of any municipality to amend the statutory by-law so as to conform to the requirements of the municipality or to meet such special circumstances as, in the opinion of the Department, may warrant such amendment. Amendment of by-law.

(3) The by-law set out in Schedule B and any amendment thereto approved by the Department shall have the same force and authority as a regulation made under this Act by the Department. R.S.O. 1937, c. 299, s. 124. Effect of by-law.

POSTPONEMENT OF MUNICIPAL AND SCHOOL ELECTIONS

132.—(1) Where the Minister reports to the Lieutenant-Governor that on account of the prevalence in any municipality of any communicable disease it would be dangerous to hold an election in the municipality, the Lieutenant-Governor in Council may, of his own motion or upon the application of the council of the municipality, issue his proclamation postponing the holding of any intended municipal or school election for a period not exceeding three months, and may from time to time further postpone the election if, in the opinion of the Minister, the necessity for postponement continues. Postponement of election in case of epidemics.

(2) The Lieutenant-Governor may, by the proclamation, name the days for holding the nomination and polling, but, if no days are named therefor, the council shall as soon as practicable after the period named in such proclamation, or the last of such proclamations, expires, by by-law name the days for the nomination and polling. R.S.O. 1937, c. 299, s. 125. Fixing date for holding postponed election.

UNORGANIZED TERRITORY

133. Sections 134 to 141 shall apply only to territory without county organization. R.S.O. 1937, c. 299, s. 126. Application of ss. 134 to 141.

134.—(1) The Minister, with the approval of the Lieutenant-Governor in Council, may make regulations, Regulations.

- (a) respecting any industry and the conditions under which the industry may be carried on for the purpose of preventing nuisances and the outbreak or spread of disease;
- (b) providing for the cleansing, regulating and inspection of lumbering camps and of mining camps and railway construction works and of other places where labour is employed;
- (c) providing for the inspection of houses and premises;

- (d) providing for the employment of duly qualified medical practitioners by employers of labour in lumbering camps and in mining camps and on railway construction works and other works where labour is employed, and for the erection of permanent or temporary hospitals for the accommodation of persons so employed; R.S.O. 1937, c. 299, s. 127 (1), cls. (a-d).
- (e) respecting the entering into, adoption, establishment, operation, termination or suspension of,
 - (i) any contract for the employment of a duly qualified medical practitioner to undertake the medical and surgical care and treatment of employees, or
 - (ii) any scheme or arrangement for the medical, surgical and hospital care and treatment of employees,

mentioned in this section or section 135, by the employers of labour referred to in clause *d*, and prescribing the forms to be used and reports to be made to the Minister;

- (f) prescribing, with respect to the deductions referred to in section 135, the amount thereof, the method of collection, the accounting therefor, the reports to be made in connection therewith, and providing for the inspection of employers' books and the conditions of payment to a duly qualified medical practitioner or other person entitled to receive such payments. 1950, c. 61, s. 7.

General,
local or
special.

(2) The regulations may be general in their application or may be made applicable specially to any particular locality or industry.

Expenses.

(3) The expenses of carrying out the regulations shall be paid to the person entitled thereto by the persons, firms or corporations whose duty it may be to carry out such regulations, and the amount so to be paid shall be apportioned by the Minister among them as he may deem proper, and every amount so apportioned shall be deemed to be a debt due from the person, firm or corporation, and may be recovered by the person entitled thereto by action in any court of competent jurisdiction.

Procedure
on default
of com-
pliance.

(4) If default is made in complying with any of the regulations, the Department may direct that what is omitted to be done shall be done at the expense of the person, firm or corporation in default, and if the default is the failure to employ a

duly qualified medical practitioner as provided by clause *d* of subsection 1, the employing person, firm or corporation shall be liable to pay the reasonable expenses incurred by any employee for medical attendance and medicines, and for his maintenance during his illness.

(5) Where any regulation has been made by the Minister with the approval of the Lieutenant-Governor in Council under the provisions of this section relating to territory without municipal organization, the regulation may provide for the imposing of penalties for the violation of any regulation made under this section and every such penalty shall be recoverable under *The Summary Convictions Act* before a magistrate or two justices of the peace. R.S.O. 1937, c. 299, s. 127 (2-5).

Penalties for breaches of regulations.
R.S.O. Stat., c. 379.

135. Where an employer of labour in camps or works mentioned in section 134 where labour is employed, in accordance with the regulations and with the approval of the Minister, has,

Medical contracts and schemes, deductions from wages.

- (a) entered into a medical contract for the employment of a duly qualified medical practitioner to undertake the medical and surgical care and treatment of his employees; or
- (b) established a scheme or entered into an arrangement for the medical, surgical and hospital care and treatment of his employees,

that employer may deduct an amount prescribed by the regulations, but not exceeding \$1.50 per month from the wages of each employee. 1950, c. 61, s. 8.

136. Every magistrate shall be *ex officio* a medical officer of health in and for the district or part of a district for which he is appointed. R.S.O. 1937, c. 299, s. 128.

Magistrates to be ex officio health officers.

137. Every constable shall be *ex officio* a sanitary inspector for the locality for which he is appointed. R.S.O. 1937, c. 299, s. 129.

Constables to be ex officio sanitary inspectors.

138. The Superintendent of the Algonquin Park shall be *ex officio* a medical officer of health for the Park, and for the territory surrounding it for the distance of one mile therefrom or from any part thereof, and all the park rangers, whether employed temporarily or otherwise, shall be *ex officio* sanitary inspectors under this Act for the Park and such territory. R.S.O. 1937, c. 299, s. 130.

Superintendent and officers in Algonquin Park.

139. The Lieutenant-Governor in Council may appoint medical officers of health, and every such officer shall within

Local officers of health specially appointed.

the locality for which he is appointed have all the powers and perform all the duties by this Act or any other Act conferred or imposed upon medical officers of health or local boards of health, and shall also perform such other duties as the Lieutenant-Governor in Council may direct. R.S.O. 1937, c. 299, s. 131.

Sanitary inspectors.

140. The Minister may, with the approval of the Lieutenant-Governor in Council, appoint in any of the unorganized districts one or more sanitary inspectors, who shall possess, in addition to the powers conferred upon sanitary inspectors by this Act, all the powers conferred upon local boards of health by section 25. R.S.O. 1937, c. 299, s. 132.

Salaries.

141. The medical officer of health and the sanitary inspectors shall be paid such salary or other remuneration as may be determined by the Lieutenant-Governor in Council out of the appropriation made by the Legislature for the purposes of the Department. R.S.O. 1937, c. 299, s. 133.

EXPENSES OF ENFORCEMENT OF ACT

Expenses to be payable in first instance by Province.

142.—(1) The expenses incurred by the Department in the enforcement of this or any other Act or of the regulations shall be payable in the first instance by the Treasurer of Ontario out of any money appropriated by the Legislature for the expenses of the Department and in such manner and upon such certificate and after such audit as the regulations may prescribe, notwithstanding anything in *The Audit Act* or any other Act to the contrary.

Rev. Stat., c. 28.

Payment on certificate of proper officer.

(2) Whenever an account is certified by the officer or officers designated in the regulations to be properly payable out of such appropriation, such certificate shall be final and the provincial Auditor shall thereupon direct the issue of a cheque in payment of the account. R.S.O. 1937, c. 299, s. 134.

PROCEEDINGS NOT TO BE QUASHED FOR WANT OF FORM, OR REMOVED INTO SUPREME COURT

Quashing or removal of proceedings.

143. No order or other proceeding, matter or thing, done or transacted in or relating to the execution of this Act shall be vacated, quashed or set aside for want of form, or be removed or removable by *certiorari* or otherwise into the Supreme Court. R.S.O. 1937, c. 299, s. 135.

SCHEDULE A

(Section 50 (2))

PUBLIC HEALTH NOTICE

Take notice that by virtue of *The Public Health Act* and the regulations made thereunder, possession has been taken (or obtained, as the case may be) of the following lands (or building, as the case may be), namely,

(Reasonable Description)

and further take notice that such land (or building) will be occupied and used for the purposes of the said Act or regulations from and after the date hereof for a period of or such other time as may, in the discretion of the undersigned, be necessary.

Dated, etc.

(Signature)

R.S.O. 1937, c. 299, Sched. A.

SCHEDULE B

(Sections 9 (6), 131)

BY-LAW IN FORCE IN EVERY MUNICIPALITY UNTIL ALTERED BY
THE MUNICIPAL COUNCIL

1. It shall be the duty of the medical officer of health to assist and advise the local board of health and its officers in matters relating to public health, and to superintend the enforcement and observance within this municipality of health by-laws or regulations, and of public health Acts, and of any other sanitary laws, and to perform such other duties and lawful acts for the preservation of the public health as may, in his opinion, be necessary, or as may be required by the Department of Health for Ontario. He shall also present to the said board, before the 31st day of January in each year, a full report upon the sanitary condition of the municipality during the preceding calendar year.

2. The sanitary inspector, besides performing the duties imposed by this by-law, shall assist the medical officer of health, and perform such other duties as may from time to time be assigned to him by the local board of health or the medical officer of health.

3. The chairman of the local board of health shall, before the 15th day of February in each year, present to this council a report containing a detailed statement of the work of the board during the year, and the report of the sanitary condition of the municipality as rendered to the board by the medical officer of health. A copy of each such report shall be transmitted by the secretary to the Department.

4. No person shall within the municipality suffer the accumulation upon his premises, or deposit or permit the deposit upon any land belonging to him of anything which may endanger the public health, or deposit upon, on or into any street, square, lane, by-way, wharf, dock, slip, lake, pond, bank, harbour, river, stream, sewer or water, any manure or other refuse, or vegetable or animal matter or other filth.

Duty of
sanitary
inspector
as to lands,
etc.

5. It shall be a duty of the sanitary inspector to keep a vigilant supervision over all streets, lanes, by-ways, lots or premises upon which any such accumulation may be found, and at once to notify the persons who own or occupy such lots or premises, or who either personally or through their employees have deposited such manure, refuse, matter or filth in any street, lane or by-way to cleanse the same and to remove what is found thereon. Such persons shall forthwith remove the same, and if the same be not removed within 24 hours after such notification, the inspector may prosecute the persons so offending, and he may also cause the same to be removed at the expense of the person or persons so offending. He shall also inspect at intervals, as directed by the local board of health or medical officer of health, all premises occupied by persons residing within the municipality, and shall report to the board every violation of any of the provisions of this by-law or of any other regulation for the preservation of the public health, and shall also report every case of refusal to permit him to make such inspection.

Examination
of buildings
or premises
by sanitary
inspectors.

6. Whenever it appears to the local board or to any of its officers that it is necessary for the preservation of the public health or for the abatement of anything dangerous or injurious to the public health, or whenever a notice signed by one or more inhabitant householders of this municipality is received stating the condition of any building in the municipality to be so filthy as to be dangerous to the public health or that upon any premises in the municipality there is any foul or offensive ditch, gutter, drain, privy, cesspool, ash-pit or cellar kept or constructed so as to be dangerous or injurious to the public health or that upon any such premises an accumulation of dung, manure, offal, filth, refuse, stagnant water or other matter or thing is kept so as to be dangerous or injurious to the public health, it shall be the duty of the sanitary inspector to enter such building or premises for the purpose of examining the same, and if necessary he shall order the removal of such matter or thing. If the occupant or owner or his lawful agent or representative having charge or control of such building or premises, after having had 24 hours notice from any such officer to remove or abate such matter or thing, neglects or refuses to remove or abate the same, he shall be subject to the penalties mentioned in section 35 of this by-law.

Notice to
put premises
in proper
sanitary
condition
or to quit
same.

7. If the local board is satisfied upon due examination that a cellar, room, tenement or building within the municipality, occupied as a dwelling place, has become by reason of the number of occupants, want of cleanliness, the existence therein of a communicable disease, or other cause, unfit for such purpose, or that it has become a nuisance, or in any way dangerous or injurious to the health of the occupants, or of the public, the board may give notice in writing to such occupants, or any of them, requiring the premises to be put in proper sanitary condition, or requiring the occupants to quit the premises within such time as the board may deem reasonable. If the persons so notified, or any of them, neglect or refuse to comply with the terms of the notice, every person so offending shall be liable to the penalties mentioned in section 35 of this by-law and the board may cause the premises to be properly cleansed at the expense of the owners or occupants or may remove the occupants forcibly and close up the premises, and the same shall not again be occupied as a dwelling place until put into proper sanitary condition.

Location of
slaughter-
house, etc.

8. No person shall at any time use any house, shop or out-house as a slaughter-house or as a place for slaughtering animals or fowl therein, unless such shop, house or out-house is distant not less than 200 yards from any dwelling house and not less than 50 yards from any public street.

Inspection
of slaughter-
houses.

9. All slaughter-houses within this municipality shall be subject to inspection under the direction of the local board of health, and no person shall keep any slaughter-house unless the permission in writing of the board for the keeping of such slaughter-house has been first obtained and remains unrevoked. Such permission shall be granted, after approval of such premises upon inspection, subject to the condition that the slaughter-house shall be so kept as to comply with the regulations of the

Department respecting slaughter-houses, and upon such condition being broken the permission may be revoked by the board, and all animals to be slaughtered, and all fresh meat exposed for sale in this municipality shall be subject to like inspection.

10. All milch cows, cow stables and dairies, and all places in which milk is sold or kept for general use, and all cheese factories and creameries shall be subject to inspection under the direction of the board, and the proprietors shall obtain permission in writing from the board to keep any such dairy or other place in which milk is so sold or kept or to keep a cheese factory or creamery, and the same shall not be kept by any person without such permission, which shall be granted after approval of such premises upon inspection, subject to the condition that all such places are so kept and conducted that the milk shall not contain any matter or thing liable to produce disease, either by reason of adulteration, contamination with sewage, absorption of disease germs, infection of cows, or any other cause, and upon such condition being broken, such permission may be revoked by the board.

Inspection of cow stables, cheese factories and creameries.

11. No person shall offer for sale within this municipality, as food, any diseased animal, or any meat, fish, fruit, vegetables, milk or other article of food which, by reason of disease, adulteration, impurity or other cause is unfit for use.

Sale of diseased food.

12. It shall be the duty of the owner of every house within this municipality to provide for the occupants of the same a sufficient supply of water for drinking and sanitary purposes, and if any occupant of the house is not satisfied with the wholesomeness or sufficiency of such supply, he may apply to the local board of health to determine as to the same. If the supply is sufficient and wholesome, the expense incident to such determination shall be paid by such occupant, and if not, by the owner, and in either case such expense shall be recoverable in the same manner as municipal taxes.

Supply of drinking water.

13. If the local board of health or the medical officer of health certifies that any well should be filled in or otherwise treated, such well shall be dealt with accordingly by the owner or occupant of the premises. Pending compliance with the order of the local board of health or the local medical officer of health, the local medical officer of health shall take such measures as in his judgment may be necessary to prevent the use of water from such well. No well shall be used as a privy, privy-vault or cesspool.

Wells to be treated.

14. No privy-vault, cesspool, septic tank or reservoir into which a privy, water-closet, stable or sink is drained, shall be established until the approval in writing of the medical officer of health has been obtained.

Establishment of privy-vaults, etc.

15. Section 14 of this by-law shall not apply to privies or closets with a water-tight container above the surface of the ground, but sufficient dry earth, wood ashes, coal ashes or other material to absorb all fluids of the deposit shall be thrown upon the contents of such privies daily, and the contents covered completely with chloride of lime once each week. The contents when removed shall be disposed of in a sanitary manner to the satisfaction of the medical officer of health or the local sanitary inspector.

Time deposits to be removed.

16. If the exigencies or circumstances of the municipality require that privy-vaults, cesspools and reservoirs be allowed in accordance with section 14 of this by-law, they shall be cleaned out or disinfected, or both, on the order of the medical officer of health or the local board of health.

Cleaning out and disinfecting privy-vaults, etc.

17. Within the limits of this municipality no night-soil or contents of any cesspool, septic tank or reservoir shall be removed, unless the removal is by some odourless process.

Deodorization before removal.

18. It shall be the duty of the owner of every house, apartment and place of business within this municipality to provide for the occupants, employees and customers adequate sanitary closets and toilet accommodation.

Supplying toilet accommodation.

- Removal of decayed animal or vegetable matter. 19. All putrid and decaying animal or vegetable matter shall be removed from all cellars, buildings, out-buildings and yards on or before the 1st day of May in each year.
- Removal of garbage. 20. Every householder and every hotel and restaurant-keeper or other person shall dispose of all garbage, for the disposal of which he is responsible, either by burning the same or by placing it in a properly covered receptacle, the contents of which shall be removed at least twice in every week.
- Restaurants to have wash rooms, etc. 21. All restaurants or eating houses operated in this municipality shall have wash rooms and toilets, one for males and one for females, for the accommodation of the public.
- Swine. 22. Swine shall not be kept within the limits of this municipality, except in pens with floors kept free from standing water and regularly cleansed and disinfected and distant at least 100 feet from any dwelling house, schoolhouse or church.
- Livery stables. 23. The keeper of every livery or other stable shall keep his stable and stable-yard clean, and shall not permit more than two wagon-loads of manure to accumulate in or near the same at any one time, and shall at all times keep such manure in a proper covered receptacle.
- Soil of house sites to be disinfected. 24. No house shall be built upon any site, the soil of which has been made up of any refuse, unless the soil has been removed from the site and the site disinfected, or unless the soil has been covered with a layer of charcoal or ashes or covered with a layer of concrete at least six inches thick and of such additional thickness as may be requisite under the circumstances to prevent the escape of gases into such proposed house.
- Ventilation of drains, etc. 25. The drain of every house connected with a sewer or cesspool shall be properly ventilated by means of a pipe extending upward from the highest point of the main soil or waste-pipe, and also by a pipe carried upward from the drain outside the walls of the house. Such pipes shall be of the same dimensions as the main soil or waste-pipe, and shall be constructed of the same material or of stout galvanized iron, and no trap shall intervene between the ventilating pipes. If a trap intervenes between the sewer or cesspool and the ventilating pipes, then a four-inch ventilating pipe of such material shall be carried from a point between such trap and the sewer. Every ventilating pipe shall be carried above the roof of the house and shall open above at points sufficiently remote from every window, door, sky-light, chimney or other opening leading into any house to prevent the escape into it of gases from such ventilating pipes.
- Pipes not to be connected with chimneys. 26. No pipe from any drain or soil pipe shall be connected with any chimney in a dwelling house.
- Construction of drain pipes. 27. Every house drain shall be constructed of vitrified earthenware or iron pipe, and every soil and waste-pipe of iron pipe shall be rendered impervious to gas or liquids by the joints being run with lead and caulked, or constructed of lead pipe weighing at least six pounds to the square foot; and the waste-pipe from every closet, sink, tub, wash-basin or other service shall have as near as possible to the point of junction with such service a trap so constructed, vented and furnished that it will at no time allow of the passage of gas into the house, and all joints shall be so constructed as to prevent gas escaping through them.
- Certain closets prohibited. 28. The construction of any closet or other convenience which allows of the escape from it or from the drain or soil-pipe into the house of air or gas is prohibited.
- Pipes supplying water to closets. 29. No pipe supplying water to a water-closet or urinal shall be directly connected with a pipe supplying water for drinking purposes.
- Plumbing and drainage plans to be filed. 30. Every person who erects or causes to be erected any building shall, within two weeks after the completion thereof, deposit with the local board of health plans of the drainage and plumbing of the same as executed,

and in the case of any alteration of any such plumbing or drainage, it shall be the duty of the owner of the house, within two weeks of the making of the alteration, to deposit in the same manner a plan of any such alteration. If such alteration is made by an occupant it shall be his duty to deposit or cause to be deposited the plan.

31. The medical officer of health or the secretary of the local board of health shall provide each legally qualified medical practitioner practising within this municipality with blank forms on which he shall report cases of communicable disease to the medical officer of health, officer or secretary, and, also, with other blank forms on which to report death or recovery from any such disease. Forms.

32. All such forms shall be printed, gummed and folded so that they may be readily sealed without the use of any envelope, and shall call for the following information: Idem.

Report of Communicable Disease.

Given name and surname of patient:

Age of patient:

Locality (*giving street, number of house or lot*) where patient is:

Name of disease:

Name of school attended by children from that house:

Measures employed for isolation and disinfection:

.....
(Signature of physician)

Report of Death or Recovery from Infectious Disease.

Given name and surname of patient:

Locality (*giving street, number of house or lot*) where patient is:

Name of disease:

How long sick:

Whether dead or recovered:

Means of disinfection employed, and when employed:

.....
(Signature of physician)

33. The medical officer of health, within six hours after he has received notice of the existence in any house of any communicable disease or the presence of any communicable disease contacts in respect of which it is his duty to do so, shall affix or cause to be affixed near the entrance of such house, in plain view of the public, a card at least twelve inches wide and nine inches long, stating that such premises are under quarantine on account of such disease and the penalty for the affixing or removal of such card without the permission of the medical officer of health, and no person shall affix or remove any such card without his permission. Placarding

34. No animal suffering from any communicable disease shall be brought or kept within this municipality, except by permission of the medical officer of health. Animals affected.

35. Any person who violates section 4, 6, 7, 9, 11, 24, 33 or 34 of this by-law shall for every offence incur a penalty of not less than \$5 nor more than \$50; and any person who violates any other provision of this by-law shall for every offence incur a penalty of not more than \$20; and such penalties shall be recoverable under *The Summary Convictions Act*. Penalties.
Rev. Stat., c. 379.

R.S.O. 1937, c. 299, Sched. B; 1938, c. 30, ss. 11, 12, 13; 1939, c. 37, s. 6.

CHAPTER 307

The Public Hospitals Act**1. In this Act,**Interpre-
tation.

- (a) "board" means a board of directors, governors, trustees, commission or other governing body or authority of a hospital;
- (b) "dependant" means a patient for the charges for whose treatment some other person is liable in law;
- (c) "Department" means Department of Health;
- (d) "hospital" means any institution, building or other premises or place, howsoever created, established or incorporated for the treatment of persons suffering from sickness, disease or injury, or for the treatment of incurable persons;
- (e) "incurable person" means any person afflicted with or suffering from any incurable disease, sickness, injury or other condition of a permanent nature requiring treatment;
- (f) "inspector" means an officer of the Department designated under this Act as an inspector;
- (g) "Minister" means the member of the Executive Council charged for the time being with the administration of this Act;
- (h) "municipality" means a city, separated town or county, except that in a territorial district it means a city, town, village or township;
- (i) "patient" means a person received and lodged in a hospital for the purpose of treatment, except that in section 33, "patient" includes a person admitted to a hospital for the purpose of treatment and a person received and lodged in a hospital for the purpose of treatment; R.S.O. 1937, c. 390, s. 1, cls. (a-i).
- (j) "provincial aid" means aid granted to a hospital out of moneys appropriated for the purpose by the Legislature; 1950, c. 62, s. 1.
- (k) "regulations" means regulations made under this Act; R.S.O. 1937, c. 390, s. 1, cl. (k).

(l) "resident" means a person who has actually resided in a municipality for the period of three months within the six months next prior to admission to a hospital; R.S.O. 1937, c. 390, s. 1, cl. (l); 1938, c. 37, s. 20 (1).

(m) "superintendent" means the person who has for the time being the direct and actual superintendence and charge of a hospital;

Rev. Stat.,
c. 388.

(n) "territorial district" means any of the territorial districts set forth in *The Territorial Division Act*;

(o) "treatment" means the stay, maintenance, observation, care, nursing or treatment of a patient;

(p) "unorganized territory" means that part of a territorial district which is without municipal organization. R.S.O. 1937, c. 390, s. 1, cls. (m-p).

Sanatoria
and private
hospitals
not affected.
Rev. Stat.,
cc. 346, 289.

2. Nothing in this Act shall in any way relate to or affect a sanatorium under *The Sanatoria for Consumptives Act* or a private hospital under *The Private Hospitals Act*. R.S.O. 1937, c. 390, s. 2.

Hospitals
aided in
1930
approved.

3.—(1) The several institutions which under *The Hospitals and Charitable Institutions Act*, being chapter 359 of the Revised Statutes of Ontario, 1927, as public hospitals or homes for incurables received aid for the year 1930 from the Province shall for the purposes of this Act and the regulations be deemed to be hospitals approved under this Act.

New hospi-
tals to be
approved.

(2) No institution, building or other premises or place shall hereafter be created, established or incorporated as a hospital until the same has been approved by the Lieutenant-Governor in Council.

Hospitals
not to
operate
without
approval.

(3) No institution, building or other premises or place shall be operated or used as a hospital unless it is approved by the Lieutenant-Governor in Council. R.S.O. 1937, c. 390, s. 3 (1-3).

Sale, etc.,
to be
approved.

(4) No building or other premises or place or any part thereof acquired or used for the purposes of a hospital shall be sold, leased, mortgaged or otherwise disposed of without the approval of the Lieutenant-Governor in Council. 1949, c. 80, s. 1.

Suspension
or revoca-
tion of
approval.

(5) Any approval given or deemed to have been given under this Act in respect to any hospital may be suspended by the Minister or revoked by the Lieutenant-Governor in Council. R.S.O. 1937, c. 390, s. 3 (4).

4. The Lieutenant-Governor in Council, upon the recommendation of the Minister, may make such regulations with respect to hospitals as may be deemed necessary for, ^{Regulations for hospitals.}

- (a) their creation, establishment, construction, alteration, equipment, maintenance and repair;
- (b) their classification, grades and standards;
- (c) their inspection, control, government, management, conduct, operation and use;
- (d) providing that certain persons shall be *ex officio* members of the board in addition to the members of the board appointed or elected in accordance with the authority whereby the hospital is established;
- (e) their superintendents, staffs, officers, servants and employees, and the powers and duties thereof;
- (f) the admission, treatment, conduct, discipline and discharge of patients;
- (g) the classification and lengths of stay of and rates and charges for patients;
- (h) the records, books, accounting systems, audits, reports and returns to be made and kept by hospitals;
- (i) prescribing the classes of grants by way of provincial aid and the methods of determining the amounts of grants and providing for the manner and times of payment and the suspension and withholding of grants and for the making of deductions from grants;
- (j) all other matters affecting hospitals. R.S.O. 1937, c. 390, s. 4; 1942, c. 34, s. 28; 1948, c. 40, s. 5, par. 3; 1950, c. 62, s. 2.

5. It shall be the duty of the Department and it shall have power to administer and enforce the provisions of this Act and the regulations, and the Department may, from time to time, declare all or any of the regulations to be in force with respect to all hospitals or any specified hospital or hospitals and for such time or times as the Department may deem expedient. R.S.O. 1937, c. 390, s. 5. ^{Enforce-ment of Act.}

6. The Minister, with the approval of the Lieutenant-Governor in Council, may designate one or more officers of the Department to be inspectors for the purposes of this Act and the regulations, and the powers and duties of such inspectors shall be as prescribed by the regulations. R.S.O. 1937, c. 390, s. 6. ^{Inspectors.}

Hospital powers and their exercise.

7. Every hospital shall have power to carry on its undertaking as may be authorized by any general or special Act under which it was created, established, incorporated or empowered so to do, but where the provisions of any general or special Act conflict with the provisions of this Act or the regulations, the provisions of this Act and the regulations shall prevail. R.S.O. 1937, c. 390, s. 7; 1939, c. 38, s. 1.

Expropriation powers.

8. The board of a hospital or a corporation incorporated for the purpose of establishing a hospital within the meaning of this Act may pass by-laws for expropriating any land which may be requisite for or advantageous to any of its purposes, and in that behalf may exercise the powers of expropriation conferred on a municipality under *The Municipal Act*, the provisions of which relating thereto shall, *mutatis mutandis*, apply to and govern the exercise of such powers, so far as the same are applicable or necessary thereto, and the superintendent in such case shall exercise the powers and perform the duties which under that Act are to be exercised and performed by the clerk of the municipality. R.S.O. 1937, c. 390, s. 8; 1945, c. 18, s. 2.

Rev. Stat., c. 243.

By-laws, etc., to be approved.

9. No by-law, rule or regulation of any hospital or of any corporation referred to in section 8 shall have force or effect until the same is approved by the Lieutenant-Governor in Council. R.S.O. 1937, c. 390, s. 9; 1945, c. 18, s. 3.

Medical students' clinics.

10. Subject to the provisions of any existing agreement relating thereto, every hospital, other than a hospital for incurables, receiving provincial aid under this Act shall provide such reasonable facilities for giving instruction to medical students of any university as may be required by the regulations. R.S.O. 1937, c. 390, s. 10; 1948, c. 40, s. 5, par. 4; 1950, c. 62, s. 3.

Hospitals to admit sick persons.

11. Except as may be otherwise provided in this Act, no hospital other than a hospital for incurables, receiving provincial aid shall refuse to admit as a patient any person who from sickness, disease or injury or otherwise is in need of treatment, and no hospital for incurables receiving such aid shall refuse to admit as a patient any incurable person so certified in accordance with the regulations. R.S.O. 1937, c. 390, s. 11.

Admission of indigents under agreement.

12. Except as may otherwise be provided in this Act or in the agreement, no hospital with which a municipality has entered into an agreement under this Act shall refuse to admit as a patient any indigent person or dependant of an indigent

person a resident in such municipality, who from sickness, disease or injury or otherwise is in need of treatment. R.S.O. 1937, c. 390, s. 12.

13. Nothing in this Act shall require that any hospital, other than an isolation hospital, admit or retain as a patient any person suffering from a communicable disease which under *The Public Health Act* or regulations made thereunder requires quarantine and placarding. R.S.O. 1937, c. 390, s. 13. Refusal of communicable disease cases.
Rev. Stat., c. 306.

14. Nothing in this Act shall, unless by refusal of admission life would thereby be endangered, require that any hospital admit as a patient any person who is not a resident or a dependant of a resident of Ontario. R.S.O. 1937, c. 390, s. 14. Refusal of non-residents.

15. No hospital for incurables shall admit as a patient an indigent person or the dependant of an indigent person until such person or dependant is certified in accordance with the regulations to be an incurable person. R.S.O. 1937, c. 390, s. 15; 1940, c. 23, s. 1. Admission of incurable persons.

16. When any patient in a hospital is an indigent person or a dependant of an indigent person, the municipality in which such person was resident at the time of admission shall be liable to the hospital for payment of the charges for treatment of such patient at the following rates: Municipal liability for indigents

- (a) in the case of a hospital which in the regulations is classed as a Group A hospital, at the rate of \$4 per day;
- (b) in the case of a hospital which in the regulations is classed as a Group B hospital, at the rate of \$3.50 per day;
- (c) in the case of a hospital which in the regulations is classed as a Group C or Group D hospital, at the rate of \$3 per day;
- (d) in the case of all other hospitals, at the rate of \$2.50 per day. 1950, c. 62, s. 4, *part, amended*.

17. With the approval of the Minister, a municipality may enter into an annual agreement with a hospital respecting the admission and treatment of all indigent persons and dependants of indigent persons residents in the municipality, and in such case the liability of the municipality to the hospital shall be determined according to the agreement in lieu of under this Act. R.S.O. 1937, c. 390, s. 17; 1948, c. 40, s. 5, par. 6; 1950, c. 62, s. 5. Municipal agreements as to indigents.

Liability
for non-
residents
may be
assumed.

18. A municipality may pay to a hospital the charges for treatment of a patient notwithstanding that the patient was not a resident in the municipality at the time of admission to the hospital. R.S.O. 1937, c. 390, s. 18.

Burial
expenses.

19. In the event of the death in a hospital of any patient who is an indigent person or a dependant of an indigent person, that municipality in which such indigent person was a resident at the time of admission shall pay to the hospital any expenses of burial which it may incur, not exceeding \$30, but the municipality may increase the maximum amount payable to \$40. 1948, c. 71, s. 1.

Notice
to munic-
ipality of
admission of
indigent to
hospital.

20.—(1) Upon admission to a hospital of any patient who is or is represented to be or becomes an indigent person or the dependant of an indigent person, the superintendent shall by registered letter notify the clerk of the municipality in which such indigent person is or is represented to be a resident, of such admission, giving such particulars as may be ascertainable to enable the clerk to identify the indigent person.

Indigency
after
admission.

(2) Where any patient becomes an indigent after admission to a hospital, the superintendent shall notify the clerk of the municipality in accordance with subsection 1 when the indigency becomes known to the superintendent. R.S.O. 1937, c. 390, s. 20.

Notice to
clerk of
local muni-
cipality.

(3) Where the superintendent notifies the clerk of a county in accordance with subsection 1 or subsection 2, he shall, at the same time and in the same manner, notify the clerk of the local municipality in which such indigent person is or is represented to be a resident. 1941, c. 55, s. 26.

Notice
disputing
liability.

21. Unless the clerk of a municipality within 20 days after the date of mailing any such notice to him, by registered letter, notifies the superintendent from whom such notice was received that the patient referred to therein was not a resident in the municipality at the time of admission as a patient or is not an indigent person or a dependant of an indigent person, such municipality shall be liable for the charges for treatment of such patient as provided for in this Act. R.S.O. 1937, c. 390, s. 21; 1948, c. 40, s. 5, par. 7; 1950, c. 62, s. 6.

Information
to be
furnished.

22. The clerk of a municipality, when notifying a superintendent that a patient is not a resident in the municipality or is not an indigent person or a dependant of an indigent person, shall furnish such information as he may have ascertained with respect to such patient. R.S.O. 1937, c. 390, s. 22.

23. For the purpose of this Act, no patient shall be deemed to be a resident in a municipality, Cases where residence not presumed,

- (a) by reason of having gone to the municipality for the purpose of seeking medical advice or treatment or seeking admission or treatment in a hospital in such municipality, but in such cases the patient shall for the purpose of this Act be deemed to be a resident in that municipality in which he was a resident at the time of going to the first-named municipality for the purpose of seeking such advice, treatment or admission; or persons seeking medical aid;
- (b) if the municipality is in a territorial district, and the patient being infected or likely or suspected of being infected with tuberculosis has gone to such municipality principally for the purpose of health and within one year after going to such municipality is admitted as a patient in a hospital, but in such cases the patient shall for the purpose of this Act be deemed to be a resident in that municipality in which he was a resident at the time of going to a municipality in a territorial district; or health seekers in the districts;
- (c) if the patient has been living in the municipality by reason of being a pupil in any school, college, university, training school for nurses established under *The Nurses Act*, or other seminary of learning therein and at the time he became such a pupil was not a resident therein, but in such cases the patient shall for the purpose of this Act be deemed to be a resident in that municipality in which he was a resident at the time he became such a pupil; or pupils; Rev. Stat., c. 256.
- (d) by reason of having been a patient or an inmate of a hospital, sanatorium, house of refuge, orphanage, children's shelter or child welfare institution, jail, reformatory, prison or other public institution in the municipality and otherwise was not a resident therein, but in such cases the patient shall for the purpose of this Act be deemed to be a resident in that municipality in which he was a resident at the time he became such an inmate or patient; or institutional inmates;
- (e) if the patient has been living in the municipality by reason of being engaged on active service as a member of the naval, military or air force of Canada, but in such cases the patient shall for the purpose of this Act be deemed to be a resident in that municipality in which he was a resident at the time of enlistment for service; or members of naval, military or air force;

period
between
application
and
admission;

(f) by reason of having gone to the municipality during the period between the filing of application for admission and admission to a hospital, but in such case the patient shall for the purpose of this Act be deemed to be a resident in that municipality in which he was resident at the time of going to the first-named municipality for the purpose of awaiting admission; or

accommoda-
tion after
discharge.

(g) if the patient has been discharged from a hospital and has been provided with accommodation in a municipality by and at the expense of some other municipality, but in such case the patient shall, for the purpose of this Act, be deemed to be a resident in the municipality in which he was resident at the time he was provided with such accommodation in the first-named municipality. R.S.O. 1937, c. 390, s. 23; 1938, c. 37, s. 20 (2); 1940, c. 23, s. 2; 1943, s. 25, s. 1; 1945, c. 18, s. 5.

County's
right to
contribution.

24.—(1) Where the corporation of a county has not made an agreement under section 17, it shall have the right to recover not exceeding one-half of the charges paid by it in respect to treatment in a hospital of any patient for which it is liable under this Act from the corporation of the township, town or village forming a part of the county in which the patient was a resident at the time of admission. R.S.O. 1937, c. 390, s. 24 (1); 1948, c. 40, s. 5, par. 8; 1949, c. 80, s. 2; 1950, c. 62, s. 7 (1).

Particulars
as to
residence or
indigence.

(2) The clerk of a county shall have authority to require the clerk of any local municipality within the county to furnish such particulars as may be ascertainable in respect of the residence or indigence of any person whose case has been brought to the attention of the clerk of the county under section 20.

Particulars
to be sent
to county
clerk.

(3) The clerk of a local municipality, within 10 days of receiving a notice sent to him pursuant to subsection 2, shall send the particulars requested to the clerk of the county by registered letter. 1940, c. 23, s. 3, *part*.

Liability of
local muni-
cipality.

(4) Upon the failure of the clerk of a local municipality to comply with the provisions of subsection 3, such local municipality shall be liable to the county for the charges for treatment of the patient in respect of whom the information is requested, as provided for in this Act. 1940, c. 23, s. 3, *part*; 1948, c. 40, s. 5, par. 9; 1950, c. 62, s. 7 (2).

Residence of
dependant.

25.—(1) A dependant of an indigent person for the purpose of this Act shall be deemed to be a resident in that municipality in which such indigent person is resident, but where such

indigent person is not a resident in any municipality such dependant shall be deemed to be a resident in that municipality in which such dependant is resident. R.S.O. 1937, c. 390, s. 25; 1940, c. 23, s. 4 (1).

(2) A dependant of a person who is engaged on active service as a member of the naval, military or air force of Canada shall be deemed to be a resident in that municipality in which such dependant is resident. 1940, c. 23, s. 4 (2).

Dependant of member of naval, military or air force.

26. When a patient in a hospital, other than a hospital for incurables, for the charges for whose treatment a municipality is liable under this Act is certified in accordance with the regulations to be an incurable person, the hospital may require of the municipality liable that such patient be removed from the hospital within seven days after notice has been given by registered letter to the clerk thereof, and failing which removal the hospital shall be entitled to charge the municipality liable, 25 cents per day in addition to any other charges provided to be paid under this Act while such patient remains in the hospital. R.S.O. 1937, c. 390, s. 26; 1948, c. 40, s. 5, par. 10; 1950, c. 62, s. 8.

Incurable persons in hospitals.

27. When a baby is born in a hospital, it shall for the purpose of this Act be deemed to be a patient, and, if it is the baby of an indigent person, shall be deemed to be a resident in that municipality in which such indigent person is a resident, and the municipality shall be liable for the treatment of a baby as the dependant of an indigent person at a rate of 60 cents per day for a period not exceeding 14 days after the birth of the baby. R.S.O. 1937, c. 390, s. 27.

Babies born in hospital.

28. When under this Act the charges for treatment of any patient or for burial expenses of a deceased patient are payable by a municipality, the hospital to which such patient was admitted shall from time to time render to the clerk of the municipality statements of account of any such charges with full particulars thereof, and if the amount of any such account is not paid within a reasonable time after it has been rendered it may be recovered as a debt in any court of competent jurisdiction. R.S.O. 1937, c. 390, s. 28; 1948, c. 40, s. 5, par. 11; 1950, c. 62, s. 9.

Statements of account to be rendered.

29. Upon payment by a municipality of any account rendered to it by a hospital for treatment of a patient or on payment by it of any expenses of burial of a deceased patient, such municipality may recover from the patient, or, in the event of his decease, from his estate or personal representa-

Municipal right of recourse against patient.

tives, or, in the case of a dependant, from any person liable in law in respect to such dependant, the amount of the payment so made, and the same may be recovered as a debt in any court of competent jurisdiction. R.S.O. 1937, c. 390, s. 29.

Municipal
right of
recourse
against
proper
municipality.

30. Upon payment by a municipality to a hospital of any account for treatment of a patient or upon payment of any expense of burial of a deceased patient by reason of such patient having been assumed to be a resident in the municipality and it being ascertained that the patient was not a resident therein but at the time of admission to the hospital was a resident in another municipality in Ontario, the municipality which made the payment may recover the amount thereof as a debt from the municipality in which the patient was a resident, and upon payment by that municipality it shall be entitled to exercise the rights of recovery conferred under section 29. R.S.O. 1937, c. 390, s. 30.

Grants to
hospitals.

31. The Minister may, out of such moneys as may be appropriated by the Legislature for the purpose, pay grants to hospitals by way of provincial aid in such amounts, in such manner and at such times as may be prescribed by the regulations. 1950, c. 62, s. 10.

Penalties.

32. Every person who contravenes or is a party to the contravention, directly or indirectly, of any provision of this Act or the regulations shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$5 and not more than \$500. R.S.O. 1937, c. 390, s. 38.

Limitation
of action.

33. Any action against a hospital or any nurse or person employed therein for damages for injury caused by negligence in the admission, care, treatment or discharge of any patient shall be brought within six months after such patient is discharged from or ceases to receive treatment at such hospital and not afterwards. 1939, c. 38, s. 2.

Interpre-
tation.

34.—(1) In this section, "municipality" means county, city, town, village and township.

Hospital
officer,
appoint-
ment of.

(2) The council of a municipality either alone or in conjunction with the council or councils of another municipality or other municipalities may by by-law appoint a duly qualified medical practitioner to be the hospital officer for such municipality, and the by-law may provide for the term and conditions of his appointment and the payment of remuneration.

Authority
of hospital
officer:

(3) A hospital officer so appointed shall have authority to visit any hospital and to secure from the superintendent

information relating to any indigent patient in the hospital who is a resident of any municipality for which the hospital officer is appointed.

(4) A hospital officer may exercise the powers conferred in subsection 3 in respect of indigent patients from municipalities other than the municipality for which the hospital officer is appointed, but only at the request of the hospital officer for the municipality in which such patient is resident. ^{Powers re indigent patients.}

(5) If any hospital officer is of the opinion that it is unnecessary for any indigent patient to remain in the hospital, the hospital officer shall make a report of his findings and recommendations to the superintendent of the hospital and to the Department. ^{Report re indigent patients.}

(6) No municipality shall enact a by-law under this section until 30 days after notice of intention thereof has been given to the Department. 1940, c. 23, s. 5. ^{Enactment of by-law.}

CHAPTER 308

The Public Inquiries Act

1. Whenever the Lieutenant-Governor in Council deems it expedient to cause inquiry to be made concerning any matter connected with or affecting the good government of Ontario, or the conduct of any part of the public business thereof or of the administration of justice therein, and such inquiry is not regulated by any special law, he may, by commission, appoint one or more persons to conduct such inquiry and may confer the power of summoning any person and requiring him to give evidence on oath and to produce such documents and things as the commissioner or commissioners deem requisite for the full investigation of the matters into which he or they are appointed to examine. R.S.O. 1937, c. 19, s. 1. Appointment of commission.

2. The commissioner shall have the same power to enforce the attendance of witnesses and to compel them to give evidence and produce documents and things as is vested in any court in civil cases. R.S.O. 1937, c. 19, s. 2. Compelling attendance of witnesses.

3.—(1) A commission may be issued directing an inquiry into matters connected with elections to the Assembly and any alleged attempt to corrupt a candidate at any such election or a member of the Assembly after his election. Inquiry as to election.

(2) Such inquiry may be directed notwithstanding that the person charged may be liable to criminal prosecution or that criminal proceedings have been commenced or concluded. Not affected by liability to prosecution.

(3) A commission shall not issue under this section nor shall an inquiry proceed under a commission already issued where a petition has been presented under *The Controverted Elections Act* with respect to the election until the proceedings thereon have terminated, nor shall such a commission issue during a session of the Legislature without the assent of the Assembly. Not to proceed when petition pending or during session. Rev. Stat., c. 67.

(4) The Assembly, upon the evidence taken under the commission being submitted, may take, under *The Legislative Assembly Act* or under any other authority belonging to the Assembly, such action as may be deemed proper, as fully as if such evidence had been given at the bar of the Assembly. Power to take action on evidence. Rev. Stat., c. 202.

Circumstances under which no action to be taken.

(5) No such action shall be taken against any person so charged founded upon evidence given by any witness unless it appears that he had an opportunity of appearing before the commissioner and cross-examining the witness either at the time that he was examined in chief or subsequently and that he had also an opportunity of calling witnesses on his own behalf. R.S.O. 1937, c. 19, s. 3.

Revoking or changing commission.

4. The Lieutenant-Governor in Council may revoke, modify or enlarge the scope of any commission. R.S.O. 1937, c. 19, s. 4.

Stated case.

5.—(1) Where the validity of the commission or the jurisdiction of a commissioner or the validity of any decision, order, direction or other act of a commissioner is called into question by any person affected, the commissioner, upon the request of such person, shall state a case in writing to the Court of Appeal setting forth the material facts and the decision of the court thereon shall be final and binding.

Order directing stated case.

(2) If the commissioner refuses to state a case, any person affected may apply to the Court of Appeal for an order directing the commissioner to state a case.

Proceedings stayed until case determined.

(3) Pending the decision of the stated case, no further proceedings shall be taken by the commissioner.

Action, injunction, etc., not to lie against commissioner.

(4) No action shall be brought or other proceeding taken with respect to anything done or sought to be done by the commissioner or to restrain or interfere with or otherwise direct or affect the conduct of any such commissioner. R.S.O. 1937, c. 19, s. 5.

CHAPTER 309

The Public Lands Act

1. In this Act,Interpreta-
tion.

- (a) "Department" means Department of Lands and Forests;
- (b) "mines and minerals" includes gold, silver, copper, lead, iron and other mines and minerals and quarries and beds of stone, marble or gypsum;
- (c) "Minister" means Minister of Lands and Forests;
- (d) "public lands" includes lands heretofore designated as Crown lands, school lands and clergy lands;
- (e) "regulations" means regulations made under this Act. R.S.O. 1937, c. 33, s. 1.

PART I

DEPARTMENT OF LANDS AND FORESTS

2. The Department of Lands and Forests shall be presided over by the Minister and he shall have the management, sale and disposition of the public lands and forests. R.S.O. 1937, c. 33, s. 2.

Department
and
Minister
of Lands
and Forests.**3.** There shall be,Deputy
Ministers.

- (a) a Deputy Minister of Lands and Forests who shall be appointed by the Lieutenant-Governor in Council, who shall have charge of the administration of the Department and such other duties as may be assigned to him by the Lieutenant-Governor in Council or the Minister; and
- (b) a Deputy Minister of Forestry who shall be appointed by the Lieutenant-Governor in Council, who shall have charge of matters respecting reforestation, forest protection, forest research and investigation and such other duties as may be assigned to him by the Lieutenant-Governor in Council or the Minister. 1948, c. 72, s. 1.

4. There shall be an officer of the Department to be known as the Surveyor General who shall be appointed by the

Surveyor
General.

Lieutenant-Governor in Council, who shall perform such duties in connection with the surveying of lands, investigation of water powers, engineering, inspection, research and such other matters as may be assigned to him by the Lieutenant-Governor in Council or by the Minister. 1942, c. 34, s. 30 (3).

Power
to make
regulations.

5.—(1) The Lieutenant-Governor in Council may make such regulations as he may deem necessary to carry out the provisions of this Act, or to meet cases for which no provision is made by this Act. R.S.O. 1937, c. 33, s. 4 (1).

Publication.
Rev. Stat.,
c. 337.

(2) The regulations shall be filed in accordance with *The Regulations Act*, and published in such newspaper as the Minister may direct. 1946, c. 79, s. 1.

Appointment
of officers
and agents.

6. The Lieutenant-Governor in Council may appoint such officers and agents to carry out the provisions of this Act and of the regulations as he may deem necessary. R.S.O. 1937, c. 33, s. 5.

Exercise
of powers.

7. The powers by this Act conferred on the Minister shall be exercised subject to the regulations and they may also be exercised by the Lieutenant-Governor in Council. R.S.O. 1937, c. 33, s. 6.

Annual
report.

8.—(1) The Minister shall after the close of each fiscal year file with the Provincial Secretary an annual report upon the affairs of the Department.

Tabling.

(2) The Provincial Secretary shall submit the report to the Lieutenant-Governor in Council and shall then lay the report before the Assembly, if it is in session, or if not, at the next ensuing session. 1949, c. 81, s. 1.

Security by
Deputy
Ministers
and agents.

9. Each Deputy Minister and every public lands agent shall furnish such security for the due performance of their duties as the Lieutenant-Governor in Council may prescribe. R.S.O. 1937, c. 33, s. 8.

Purchase,
etc., by
agent of
land, etc.,
in his agency
forbidden.

10.—(1) No public lands agent shall within the agency for which he is appointed, unless under the authority of the Minister, directly or indirectly purchase or become the owner of or interested in any public lands in such agency, and any such purchase or interest shall be void.

Penalty.

(2) For every contravention of this section the agent shall be liable to a penalty of \$400. R.S.O. 1937, c. 33, s. 9.

SURVEYS

11. The Minister, subject to the regulations and to the directions of the Lieutenant-Governor in Council, may cause to be surveyed and subdivided any of the unsurveyed public lands in such manner and according to such plan as he may deem proper. R.S.O. 1937, c. 33, s. 10. Survey of unsurveyed public lands.

12. This Act shall be subject to *The Provincial Forests Act*. R.S.O. 1937, c. 33, s. 11. Act subject to Rev. Stat., c. 297.

GRANTS, SALES AND LICENCES OF OCCUPATION

13.—(1) The Lieutenant-Governor in Council may set apart and appropriate such of the public lands as he may deem expedient for roads and for the sites of wharves or piers, market places, jails, court houses, public parks or gardens, town halls, hospitals, places of public worship, burying grounds, schools, and for purposes of agricultural exhibitions, and for other like public purposes, and for model or industrial farms; and may make free grants for such purposes, and the trusts and uses to which they are to be subject shall be expressed in the letters patent; but no grant shall be for more than 10 acres in any one case, and for any one of such purposes, except for a model or industrial farm, in which case the grant shall not be for more than 100 acres. Appropriation for certain public purposes and free grants thereof made.

(2) The Lieutenant-Governor in Council at any time before the issue of the letters patent may revoke any such appropriation. R.S.O. 1937, c. 33, s. 12. Revocation.

14. The Lieutenant-Governor in Council may set apart areas of public lands for any purpose which will benefit research in, and the management, utilization and administration of the public lands and forests. 1949, c. 81, s. 2. Public lands set apart for research.

15. The Lieutenant-Governor in Council may, from time to time, fix the prices at which the public lands are to be sold, and the terms and conditions of sale and of settlement including the rate of interest to be charged on any unpaid balance. R.S.O. 1937, c. 33, s. 13; 1944, c. 49, s. 1. Lieutenant-Governor to fix price of public lands, etc.

16.—(1) The Minister may issue under his hand and seal a licence of occupation to any person who has purchased, or is permitted to occupy, or is entrusted with the care or protection of any public lands or who has received or been located on any public lands as a free grant. Licences of occupation.

(2) Such person or his assigns may take possession of and occupy the land for which the licence is issued, subject to the Effect of licence of occupation.

conditions of the licence, and may under it, unless it has been revoked or cancelled, maintain actions against any wrongdoer or trespasser, as effectually as he could under letters patent from the Crown.

As evidence. (3) The licence of occupation shall be *prima facie* evidence of the right to possession by such person and his assigns of the land, but shall have no force against a licence to cut pine trees existing at the time of its issue or where the pine trees are reserved to the Crown against a licence to cut such trees then existing or thereafter issued. R.S.O. 1937, c. 33, s. 14.

Minister to decide as to right to patent.

17. The Minister shall have authority to determine all questions which arise as to the rights of persons claiming to be entitled to letters patent of land located or sold under this Act and his decision shall be final and conclusive. R.S.O. 1937, c. 33, s. 15.

FORFEITURE OF CLAIMS

Cancellation of sale, etc., of land in case of fraud or error, etc.

18. If the Minister is satisfied that a purchaser, locatee or lessee of public lands, or any person claiming under or through him, has been guilty of fraud or imposition, or has violated any of the conditions of sale, location or lease, or of the licence of occupation, or if the same was made or issued in error or by mistake, he may cancel such sale, location, lease or licence, and resume the land and dispose of it as if the same had never been made. R.S.O. 1937, c. 33, s. 16.

Mode of obtaining possession, if the settler refuses to deliver up land, or a trespasser is in possession.

19.—(1) Where a purchaser, locatee, lessee or other person refuses or neglects to deliver up possession of any land after the revocation or cancellation of the sale, location, lease or licence of occupation thereof, or where a person is wrongfully in possession of public lands and refuses to vacate or abandon possession of the same, the Minister may apply to a judge of the county or district court of the county or district in which the land or any part of it is situate for an order for possession, and the judge, upon proof to his satisfaction that the right or title of such purchaser, locatee, lessee or other person to hold the land has been revoked or cancelled, or that the person in possession is wrongfully in possession of the land shall make an order requiring him to deliver up the land to the Minister, or to any person authorized by him to receive possession of it, or the Minister may by his warrant require such purchaser, locatee, lessee or person to deliver up the land to the person named in the warrant.

Effect of order or warrant.

(2) The order or warrant shall have the same force as a writ of possession, and the sheriff or bailiff or person to whom it is entrusted for execution shall execute it in like

manner as he would a writ of possession in an action for the recovery of land.

(3) The sheriff, bailiff or other person executing the order or warrant may take with him all necessary assistance and shall have the right to demand such assistance in the same manner as a constable or other peace officer in the execution of his duty. Officer's right to demand assistance, etc.

(4) Where it appears to the Minister that the presence of any person who is wrongfully or without lawful authority in possession of or occupying any public lands is dangerous to the safety of any timber or other public property on such land or in its vicinity, and it is expedient for that or any other reason to remove him from such land, the Minister may by warrant authorize any member of the Ontario Provincial Police Force, forest ranger, public lands agent, or other officer or person to remove such person from such land and also to remove therefrom any building, structure or tent erected or used by such person. Removal of trespassers from public lands.

(5) If any person who has given up possession of or has been removed from any land under the authority of this section again returns to or enters upon it, the order or warrant shall be a sufficient authority to the officer or person named in it again to remove such person from the land, and the power of removal may be exercised under such order or warrant from time to time and as often as occasion may require. Person removed may be again removed.

(6) Every person who refuses to obey any such order or warrant, or who resists, obstructs or interferes with any person executing it, or who again returns to the land, shall be guilty of an offence and on summary conviction shall be liable to a penalty of not less than \$20 and not more than \$100, and shall also be liable to imprisonment for a term of not more than six months. R.S.O. 1937, c. 33, s. 17. Penalty for obstruction, etc.

ALIENATION OF UNPATENTED LANDS

20.—(1) Except with the consent in writing of the Minister, public lands, which have been purchased under this Part, shall not, before the issue of letters patent, be alienated, mortgaged, or charged, either voluntarily or involuntarily, except by devise or sale under the authority of any Act of the Legislature relating to taxation or statute labour. Restraint on alienation of rights in unpatented lands.

(2) Except by mortgage or charge thereon made in favour of the Crown, neither the land nor any interest or right therein shall, before the issue of letters patent, be liable for the satisfaction of debts incurred before the issue of letters patent. Lands not to be liable for debts incurred before patent.

faction of any debt or liability contracted or incurred by such purchaser, his widow, heirs or devisees. R.S.O. 1937, c. 33, s. 18.

RENT IN ARREAR

Issue of distress warrant, or action for rent in arrear.

21. Where rent payable to the Crown on a lease of public lands is in arrear, the Minister or an agent or officer appointed under this Act and authorized by the Minister to act in such cases, may issue a warrant, directed to any person named in it, in the nature of a distress warrant, as in ordinary cases of landlord and tenant; and the same proceedings may be had thereon for the collection of such arrears as in the last-mentioned cases; or an action may be brought in the name of the Minister for the recovery of the arrears, but a demand of the rent shall not be necessary in any case. R.S.O. 1937, c. 33, s. 19.

PATENTS ISSUED IN ERROR

Cancellation of erroneous patents.

22.—(1) Where letters patent have been issued to or in the name of the wrong person, through mistake, or contain any clerical error or misnomer or a wrong description of the land intended to be granted the Minister, if there is no adverse claim, may direct the defective patent to be cancelled and a correct one to be issued in its stead, and the corrected letters patent shall relate back to the date of the one so cancelled and shall have the same effect as if issued at the date of such cancelled letters patent.

Land registered under Rev. Stat., c. 197.

(2) The powers conferred by subsection 1 may be exercised notwithstanding that the land has been registered under *The Land Titles Act*. R.S.O. 1937, c. 33, s. 20.

Compensation in case of double or inconsistent grants.

23. Where grants or letters patent for the same land inconsistent with each other have been issued through error, or where sales or appropriations of the land inconsistent with each other have been made, the Minister may, in cases of sale, cause a repayment of the purchase money, with interest to be made to the person damnified, or where the land has passed from the original purchaser, or has been improved before discovery of the error, or where the original grant or appropriation was a free grant, he may in substitution appropriate land or give a certificate entitling the person damnified to public lands, of such value and to such extent as the Minister may deem just; but no claim shall be entertained unless it is made within five years from the discovery of the error. R.S.O. 1937, c. 33, s. 21.

Compensation for deficiency of land by reason of false survey or error in departmental books or plans.

24.—(1) Where by reason of erroneous survey or of error in the books or plans in the Department any grant, sale or

appropriation of land is found to be deficient, or any parcel of land contains less than the quantity of land mentioned in the letters patent therefor, the Minister may direct that the purchase money of so much land as is deficient, with interest thereon from the time of the application for a refund or if the land has passed from the original purchaser, the Minister may direct that the purchase money which the claimant, if he was ignorant of the deficiency at the time of his purchase, paid for so much of the land as is deficient, with interest thereon from the time of the application for a refund, be paid to him in land or money, as the Minister may direct.

(2) In the case of a free grant, the Minister may direct a grant to be made of other land equal in value to so much of the land intended to be granted as is deficient, as a free grant. Case of free grants.

(3) No claim shall be entertained unless it is made within five years from the date of the letters patent, or unless the deficiency is equal to one-tenth of the whole quantity described as being contained in the land granted. R.S.O. 1937, c. 33, s. 22. Limitations.

25. If letters patent for land are repealed or avoided in a judicial proceeding, the judgment shall be registered in the registry office of the registry division in which the land lies or in the proper land titles office as the case may be. R.S.O. 1937, c. 33, s. 23. Registration of judgments.

REDUCTIONS OF PRICE AND ABATEMENTS OF INTEREST

26.—(1) The Minister may reduce the price of any public lands sold by the Crown before the 23rd day of June, 1942, where it appears that the land was sold at a price beyond its fair value, and that the price or part of it remains unpaid, but the reduction shall not exceed the amount which remains unpaid. R.S.O. 1937, c. 33, s. 24 (1); 1944, c. 49, s. 2. Reduction in the price of lands sold by the Crown beyond their fair value.

(2) The Minister may also make such abatement as he may deem just, of the arrears of interest upon the unpaid purchase money of any public lands sold by the Crown before the 23rd day of June, 1942. R.S.O. 1937, c. 33, s. 24 (2); 1944, c. 49, s. 2. Abatement of interest.

(3) Before any reduction or abatement is made under subsection 1, the land shall be examined and valued by an inspector appointed for that purpose by the Minister. Inspection of lands.

(4) The reduction and abatement shall be confined to cases in which the purchaser from the Crown or some person Persons entitled to a reduction.

claiming under him is in occupation of the land and is an actual settler on it or on land adjacent to it.

Reduction
in case of
school lands
not to affect
share of
Quebec.

(5) In the case of school lands, such reductions and abatements shall be made only in respect of, and in proportion to, the share or interest of Ontario in the lands and the price thereof, and shall not extend to or affect the share or interest of the Province of Quebec in the lands or the price thereof. R.S.O. 1937, c. 33, s. 24 (3-5).

RETURNS

Annual lists
of lands
granted,
etc., to be
furnished
by Minister
to county
treasurers.

27. The Minister shall in the month of February in every year transmit to the treasurer of every county and of every local municipality in territory without county organization, a list of all land within the county or local municipality patented, located as free grants, sold or agreed to be sold by the Crown, or leased, or appropriated to any person, or in respect of which a licence of occupation was issued during the next preceding calendar year, and the Minister shall in like manner inform every such treasurer of the cancellation of any licence of occupation, sale, lease, location, or appropriation. R.S.O. 1937, c. 33, s. 25.

Provincial
Secretary
to furnish
registrar
with quar-
terly state-
ment of
Crown
grants.

28.—(1) The Provincial Secretary shall, once in every three months, furnish to the registrar of every registry division, a statement containing a list of the names of all persons to whom letters patent have been issued for land within the registry division during the next preceding three months and of all persons whose letters patent have been cancelled during that period with such general or particular descriptions of the land as the case may require.

Duty of
registrar
where land
under
Rev. Stat.,
c. 197.

(2) Where a list of patented lands, furnished under this section, contains any land to which section 160 of *The Land Titles Act* applies, it shall be stated in the list that such land is subject to that Act, and in such case and also whenever the Provincial Secretary notifies the registrar of a registry division of the issue of a patent of land to which that section applies, the registrar shall in the abstract index enter the fact that the land is subject to *The Land Titles Act* and shall not thereafter receive for registration any instrument affecting the land. R.S.O. 1937, c. 33, s. 26.

OFFENCES AND PENALTIES

Employees
of the De-
partment
not to
traffic in
public lands
or take fees.

29.—(1) No person holding an office in or under the Department, and no person employed in or under the Department, except in the case provided for by section 10, shall directly or indirectly purchase any right, title or interest in

any public lands, or any land script, or deal or traffic in the same, either in his own name, or by the interposition of any other person, or in the name of any other person in trust for himself, or take or receive any fee or emolument for negotiating or transacting any business connected with the duties of his office or employment.

(2) Every person who contravenes the provisions of sub-section 1 shall be liable to a penalty of \$400. R.S.O. 1937, c. 33, s. 27. Penalty.

30. An agent to receive applications for the sale or location of public lands who knowingly and falsely informs, or causes to be informed, any person applying to him to locate or purchase any land within his division that the same has already been located, appropriated or purchased, or refuses to accept from the person so applying an application to purchase the land, or where so entitled, to locate it according to the regulations, or does not forthwith transmit an application to the Department, shall be liable therefor to the person so applying, in the sum of \$5 for each acre of land which he offered to locate or purchase. R.S.O. 1937, c. 33, s. 28. Penalty on agent knowingly giving false information, etc.

MISCELLANEOUS

31. Where by law or by any deed, lease or agreement relating to any public lands any notice is required to be given, or any act to be done, by or on behalf of the Crown, the notice may be given and the act may be done by the Minister or the Deputy Minister of Lands and Forests or by a person acting under the authority of either of them. R.S.O. 1937, c. 33, s. 29. How notices may be given.

32.—(1) Affidavits required under this Act or under *The Crown Timber Act* or under any other Act relating to the affairs of the Department, and affidavits intended to be used in reference to any claim, business or transaction in the Department, or in respect of which the Department is interested, or which affects the revenue of Ontario under the control of the Department, may be taken before any person having authority to administer oaths, or before the clerk of any county or district court, or before the Minister or either Deputy Minister, or before any agent of the Department under whatever Act or authority such agent may have been appointed an agent or before any person appointed for that purpose by the Minister or either Deputy Minister, or before an Ontario land surveyor appointed by the Minister or either Deputy Minister to inquire into, take evidence in or report upon any matter pending in the Department. Before whom affidavits under this Act may be made. Rev. Stat., c. 82.

Idem.

Rev. Stat.,
c. 119.

(2) Such affidavits, if made out of Ontario, may be taken before any person having authority under *The Evidence Act* to administer oaths out of Ontario. R.S.O. 1937, c. 33, s. 30.

Certified
copy of in-
strument to
be evidence.

Rev. Stat.,
c. 82.

33. A copy of any instrument made or issued under the hand of the Minister or of either Deputy Minister or of any officer or agent of the Department under the authority of this Act or of *The Crown Timber Act* or under the authority of the regulations made under those Acts, purporting to be certified by the Minister, either Deputy Minister, officer or agent as a true copy of such instrument, shall be *prima facie* evidence of the instrument and of its contents in all courts and before all officers and persons having by law or by the consent of parties authority to hear, receive and examine evidence. R.S.O. 1937, c. 33, s. 31.

Sales and
appropria-
tions of
water lots
may be
made.

34. The Minister may sell, lease and make appropriations of land covered with water in the harbours, rivers and other navigable waters in Ontario, under such conditions as he may deem proper, but not so as to interfere with the use of any harbour as a harbour, or with the navigation of any harbour, river or other navigable water. R.S.O. 1937, c. 33, s. 32.

PART II

FREE GRANTS TO ACTUAL SETTLERS

Free grants
limited.

35. Except as hereinafter and in section 13 otherwise provided, no free grant of public lands shall be made. R.S.O. 1937, c. 33, s. 33.

Regulations
re free grants
to members
of forces.

36. The Lieutenant-Governor in Council may make regulations,

- (a) providing for free grants not exceeding 160 acres of public land situated anywhere in the Province to former members of the forces;
- (b) defining "former members of the forces";
- (c) prescribing the terms and conditions upon which such grants may be made,

and, except as otherwise provided by the regulations, this Part shall apply to such grants. 1948, c. 72, s. 2.

Free grants
to actual
settlers.

37. The Lieutenant-Governor in Council may set apart and appropriate any territory which he may deem suitable for settlement and cultivation, for the purpose of a free grant

of the lands therein being made to actual settlers, under and subject to the regulations. R.S.O. 1937, c. 33, s. 34.

38. The person to whom land is allotted or appropriated as a free grant shall be deemed to be located for the land within the meaning of this Act, and is hereinafter called the locatee. R.S.O. 1937, c. 33, s. 35. Locatee defined.

39.—(1) The head of a family having a child or children under 18 years of age residing with him may be located for a free grant to the extent of 160 acres in townships surveyed in sections of 640 acres or in lots of 320 acres, or to the extent of 200 acres in the remainder of the free grant territory. Right of head of family to free grant.

(2) A male of the age of 18 years or upwards not having a child may be located for a free grant to the extent of 160 acres in townships surveyed in sections of 640 acres or in lots of 320 acres, or to the extent of 100 acres in the remainder of the free grant territory. Right of male, without child, to free grant.

(3) In townships surveyed in sections of 640 acres or lots of 320 acres, in addition to being located as provided for by subsection 1, every head of a family having a child or children under eighteen years of age residing with him may purchase 80 acres, and in the remainder of the free grant territory 100 acres, adjacent to his location at 50 cents an acre, payable in cash. Right of locatee to purchase additional land.

(4) Where a person has made substantial improvements on two or more adjoining lots in the district of Kenora or the district of Rainy River and the lots contain more land than he is entitled to locate and purchase, the Minister may sell to him at 50 cents per acre such additional land as under the circumstances the Minister may deem proper. Right to purchase in Kenora or Rainy River.

(5) Where it appears to the Minister that by reason of rock or swamp a lot or parcel of land containing 100 acres which he is about to allot does not contain that quantity of land that can be made available for farming purposes, he may increase the number of acres to be allotted to the locatee so that there will be allotted to him 100 acres of farming land, but the quantity allotted shall in no case exceed 200 acres. Allowance for rock, lakes or swamp.

(6) The powers conferred on the Minister by subsection 5 may also be exercised in respect of land which has been located. In case of located land.

(7) Where the whole or an aliquot part of a section or lot is or is to be located, it shall be deemed for the purpose of the location to contain the quantity of land which according to the original survey of the lot, etc., according to original survey to govern. Quantity in lot, etc., according to original survey to govern.

to the original survey it was intended to contain. R.S.O. 1937, c. 33, s. 36.

Affidavit of
person
desiring
location.

40. Before a person is located he shall make an affidavit, which shall be deposited with the agent to whom the application is made, stating that he has not been located for any land under this Part, and that he is of the age of 18 years or upwards, that he believes the land for which he desires to be located is suitable for settlement and cultivation and is not chiefly valuable for its pine trees or for its mines and minerals, and that the location is desired for his own benefit, and for the purpose of actual settlement and cultivation of the land, and not, either directly or indirectly, for the use or benefit of any other person, or for the purpose of obtaining, possessing or disposing of any of the pine trees growing or being on the land, or any benefit or advantage therefrom, or mines or minerals therein, and where the applicant is the head of a family and has a child or children under 18 years of age residing with him or her, that fact shall be stated in the affidavit. R.S.O. 1937, c. 33, s. 37.

Second
location
may be
obtained.

41. Any person who has obtained letters patent under this Part may, on proving to the satisfaction of the Minister that he has *bona fide* and absolutely parted with the patented land, obtain another location. R.S.O. 1937, c. 33, s. 38.

Issue of
permit.

42.—(1) A patent shall not be issued for land located or sold under this Part until the expiration of three years from the date of the location or sale, or until the locatee or some one claiming under him,

- (a) has cleared and has under cultivation at least 15 acres of the land of which at least two acres have been cleared and cultivated in each of the three years next after the date of the location;
- (b) has built on the land a house, fit for habitation, of the dimensions of at least 16 feet by 20 feet; and R.S.O. 1937, c. 33, s. 39 (1), cls. (a, b).
- (c) has resided upon and cultivated the land for three years after the date of the location or sale. 1949, c. 81, s. 3.

Effect of
temporary
absence.

(2) Absence from the land for not more than one month next after the date of the location or for not more than six months during any one year shall not be deemed for the purposes of clause c a cessation of residence if the land has been cultivated during that year.

(3) Where additional land is purchased by a locatee under section 39, the settlement duties may be performed either on the located or the purchased land or partly on both. Option as to settlement duties.

(4) Where a locatee has not been located for the full quantity of land for which he was entitled to be located, or, having been located for the full quantity, has afterwards become the head of a family having a child or children under 18 years of age residing with him, he shall be entitled to be located in the former case for sufficient additional adjacent land to make up the full quantity for which he was entitled to be located, and in the latter case for sufficient additional adjacent land to make up the full quantity for which he would have been entitled to be located, if at the time he was located he had been the head of a family having a child or children under 18 years of age residing with him, but it shall not be necessary for him to perform settlement duties on the subsequently located land if the settlement duties have been performed on the land first located. Rights to subsequent locations.

(5) Where the settlement duties have not been performed or completely performed on the land first located, the Minister may, subject to the regulations, permit them to be performed or completed either on the land first located or the subsequently located land or partly on both. R.S.O. 1937, c. 33, s. 39 (2-5). Latitude as to performance of settlement duties.

43. If such settlement duties are not performed, the Minister may direct that the location be forfeited, and thereupon all rights of the locatee, and of every one claiming under him, in the land shall cease. R.S.O. 1937, c. 33, s. 40. Location to be forfeited if settlement duties not performed.

44. If a person entitled to obtain a location under this Part has, without objection by the Crown, for a period of four years or more occupied and has made the prescribed improvements upon one or more lots, not exceeding in quantity that which may be granted under this Part, before the land was opened for location as free grant land, or if the land was open for location, and has so occupied and improved the land but through inadvertence or oversight has not been located for it, the Minister, if satisfied that the land is not chiefly valuable for its pine trees, subject to the regulations, may, after location under this Part, direct the issue of the letters patent upon proof of the performance of the prescribed settlement duties and without waiting for the expiration of three years from the date of the location. R.S.O. 1937, c. 33, s. 43; 1942, c. 34, s. 30 (4). When patent may issue before three years.

45. Subject to sections 42 and 44 and to the regulations, where the owner and occupant of land in the free grant Settlement duties may be dispensed with in certain cases.

territory, acquired otherwise than as a free grant, is desirous of obtaining a free grant under this Part of land adjacent to the first-mentioned land, the Minister may dispense with the performance of the settlement duties on the adjacent land and may direct the immediate issue of letters patent therefor, if he is satisfied that there are at least 30 acres cleared upon the first-mentioned land. R.S.O. 1937, c. 33, s. 42.

Issue of
patent.

46. Where, before the 16th day of December, 1941,

- (a) a person was located on land in excess of the acreage prescribed in subsection 1 or 2 of section 39 and either before or after such date completed the settlement duties in respect thereof; or
- (b) a person was located on land, whether or not in excess of the acreage prescribed in subsection 1 or 2 of section 39, and either before or after such date completed the settlement duties in respect of adjacent land in excess of the acreage prescribed in subsection 3 of section 39,

a patent may issue for all of such land notwithstanding such excess acreage. 1947, c. 84, s. 1 (1).

TREES

Reservation
of trees.

47.—(1) All trees on land disposed of for agricultural purposes shall remain the property of the Crown until the issuance of letters patent when the property in such trees shall pass to the patentee.

Pine trees
under timber
licence.

(2) Except in the districts of Kenora and Rainy River, when at the time of a disposition of land for agricultural purposes any person holds a licence to cut the pine timber on such land, the letters patent shall contain a reservation of all pine trees.

Right to
clear, etc.

(3) Where the property in any trees has not passed to the person to whom land has been disposed of for agricultural purposes, or anyone claiming under him, he may nevertheless cut and use all such trees necessary for building and fencing on all lands disposed of to him and may cut and dispose of all trees required to be removed in clearing the land for cultivation, but no trees except those necessary for such building and fencing shall be cut beyond the limit of the actual clearing without the consent in writing of an officer of the Department designated by the Minister for this purpose, provided that such consent shall not be given with respect to pine trees on land under timber licence.

(4) All trees cut under subsection 3 and sold or bartered shall be subject to the payment of the same dues as are at the time payable by the holders of licences to cut timber unless the Minister has otherwise directed in writing. Payment of Crown dues.

(5) Any person holding a licence to cut timber on land disposed of for agricultural purposes, may at all times during the continuance of the licence, enter upon the uncleared portion of such land, and cut and remove the trees and make all necessary roads provided he occasions no unnecessary damage thereby. 1946, c. 79, s. 3. Right of timber licensee.

48.—(1) The patentee of free grant land located or sold after the 5th day of March, 1880, and his assigns, shall be entitled to be paid out of the Consolidated Revenue Fund, on all pine trees cut on such land subsequent to the 30th day of April next after the date of the patent, and upon which dues have been collected by the Crown, the sum of 33 cents for each 1,000 feet, board measure, of sawlogs, and \$4 for each 1,000 cubic feet of square or waney timber, and the Lieutenant-Governor in Council may make regulations for carrying out the provisions of this section. Payment by Crown to patentees for pine trees cut.

(2) This section shall not apply to the districts of Kenora and Rainy River. R.S.O. 1937, c. 33, s. 44. Kenora and Rainy River.

ALIENATION AND EXEMPTION FROM DEBT AND DEVOLUTION OF LAND

49.—(1) Neither the locatee nor any one claiming under him, shall have power without the consent in writing of the Minister, to alienate, otherwise than by devise, or to mortgage or charge any land located as a free grant or any right or interest therein before the issue of the letters patent. Land not to be alienated, etc., before issue of patent.

(2) Except as provided in section 50, no alienation, otherwise than by devise, and no mortgage or charge of the land, or of any right or interest therein by the locatee after the issue of the letters patent, and within 20 years from the date of the location, and during the lifetime of the wife of the locatee, shall be valid or of any effect, unless the wife of the locatee is one of the grantors with her husband, nor unless the instrument is duly executed by her. After issue of patent, alienation, etc., to be by locatee and wife jointly.

(3) Where the wife of a locatee,

(a) is a mental incompetent or a person of unsound mind, and confined in an institution under *The Mental Hospitals Act*; or Conveyance of lands by locatee without concurrence of wife under certain circumstances.

(b) has been living apart from her husband for two years under such circumstances as by law disentitle her to alimony; or Rev. Stat., c. 229.

(c) has not been heard of for seven years under such circumstances as raise a legal presumption of death,

at any time after the issue of the letters patent a judge of the Supreme Court or a judge of the county or district court of the county or district in which the land or any part of it is situate, may by an order made in a summary way upon such evidence as to him seems meet, dispense with the concurrence of the wife for the purpose of conveying, mortgaging or charging the land.

Notice of application.

(4) In the cases provided for by clauses *a* and *b* of subsection 3, notice of the application shall be personally served upon the wife unless the judge otherwise directs.

Conditions for benefit of children.

(5) The order may be made subject to conditions or directions for the benefit of the children of the locatee, and, subject thereto, it shall operate to bar the right, title and interest of the wife in the land to the same extent as if she being of sound mind had been one of the grantors with her husband, and had duly executed the conveyance, mortgage or charge. R.S.O. 1937, c. 33, s. 45.

Exemption from liability for debt before issue.

50.—(1) Neither the land, nor any interest or right therein, shall in any event be or become liable for the satisfaction of any debt or liability contracted or incurred by the locatee, his widow, heirs or devisees, before the issue of the letters patent.

Exemption after issue of patent.

(2) After the issue of the letters patent and while the land, or any part of it, or any interest in it, is owned by the locatee or his widow, heirs, or devisees, the same shall during the 20 years next after the date of the location be exempt from attachment, levy under execution or sale for the payment of debts, and shall not be or become liable for the satisfaction of any debt or liability contracted or incurred before or during that period, except a debt secured by a valid mortgage or charge of the land made after the issue of the letters patent. R.S.O. 1937, c. 33, s. 46.

Patents to state date of location, etc.

51. The name of the original locatee, the date of the location, and that the letters patent are issued under the authority of this Part shall be stated in the body of the letters patent. R.S.O. 1937, c. 33, s. 47.

Right of widow on death of locatee.

52.—(1) On the death of the locatee, whether before or after the issue of the letters patent, all his then interest and right in the land, including the right to letters patent granting the land, shall descend to and become vested in his widow in lieu of dower, but the widow may elect to have her dower in the land in lieu of this provision.

(2) Where the widow of a locatee remarries, she shall not thereby divest herself of any interest or right vested in her under subsection 1. 1947, c. 84, s. 2.

Right of widow of locatee after re-marriage.

53. Nothing in this Part shall exempt the land from levy or sale for rates or taxes legally imposed. R.S.O. 1937, c. 33, s. 49.

Exemption not to extend to taxes.

54. The Minister may, by remitting any sum due to the Crown in respect of his land by such settler, place any *bona fide* settler in free grant territory, who settled thereon before it was opened for settlement as free grant territory and who is in the occupation of the land, in the same position as if his land had been free grant land at the time he settled on it. R.S.O. 1937, c. 33, s. 50.

The Minister may remit sums due by settlers in free grant townships.

PART III

PROVISIONS OF GENERAL APPLICATION

55.—(1) Where it appears to the Minister that any public lands not opened for settlement or sale are not chiefly valuable for their pine trees, the Minister may, with the approval of the Lieutenant-Governor in Council, open such lands for location and sale under Part II, or for sale under Part I to actual settlers; and the pine trees shall thereafter be included in any location or sale under Part II, or sale under Part I, and the letters patent shall be issued accordingly.

Power of Minister to open land for location and sale.

(2) A locatee or purchaser shall not be entitled to cut or dispose of the pine trees except for building and fencing, and in the course of actual clearing, until he has been six months in residence and has built a house of the dimensions of 16 by 20 feet, and has six acres cleared and under crop.

Rights of settler.

(3) The rights of locatees and purchasers shall be subject to the rights of licensees to cut pine timber under licences in force when the land is opened up for location or sale under this section. R.S.O. 1937, c. 33, s. 51.

Rights of licensees.

56. Where land was sold under Part I before the 23rd day of June, 1942, to actual settlers, the Minister may direct the issue of letters patent to the purchaser or any person claiming under him,

Where patents to certain lands in sale townships may issue.

- (a) who has built a house on the land that is fit for habitation and is at least 16 feet by 20 feet in size;
- (b) who has resided on the land for a period or periods of at least three years in all; and

- (c) who, in respect of land in the district of Cochrane or Temiskaming, has cleared and cultivated 10 per cent of the land where the sale was made before the 30th day of September, 1925, or 15 acres of the land where the sale was made on or after such date, or who, in respect of land in Ontario other than in the district of Cochrane or Temiskaming, has cleared and cultivated 10 per cent of the land. 1950, c. 63, s. 1.

Lands patented before May 1st, 1880.

57.—(1) In the case of land disposed of for agricultural purposes and patented before the 1st day of May, 1880, all trees thereon shall be deemed to have passed to the patentee by the letters patent and every reservation of trees contained in the letters patent shall be void. 1946, c. 79, s. 4, *part*.

Release from reservation of pine trees.

(2) Where letters patent issued after the 30th day of April, 1880, for lands disposed of for agricultural purposes or under the Act entitled *An Act to provide for the appropriation of certain lands for the Volunteers who served in South Africa and the Volunteer Militia who served on the frontier in 1866*, being chapter 6 of the Statutes of Ontario, 1901, reserve pine trees to the Crown and where the land is not under timber licence, the Minister, upon application of the owner and,

- (a) upon payment of a purchase price determined by the Minister; or
- (b) without charge where,
 - (i) the owner resides on or within 10 miles of the land, or
 - (ii) the pine trees exclusive of those planted by the owner do not exceed on an average 500 feet log measure per acre and the owner plants at least 10 per cent of the land with trees as a private reforestation project satisfactory to the Minister,

may make an order releasing and discharging the land from the reservation of pine trees and such order may be registered in the proper registry or land titles office. 1946, c. 79, s. 4, *part*; 1947, c. 85, s. 1; 1949, c. 81, s. 4 (1).

Order releasing lands from the reservation of pine trees.

(3) Where letters patent issued after the 30th day of April, 1880, for lands disposed of for agricultural purposes reserve pine trees to the Crown, and where the land is under timber licence, the Minister upon application of the owner may make an order releasing and discharging the land from the reservation of pine trees where,

- (a) the amount of pine timber is less than 10,000 feet log measure and at least 15 per cent of the land has been cleared for agricultural purposes and the land is occupied by the owner or tenant; or
- (b) the owner has additional land adjoining that upon which he or his tenant resides and at least 15 per cent of such land has been cleared for agricultural purposes and the amount of pine timber on such land is less than 10,000 feet log measure; or
- (c) the amount of pine timber is greater than 10,000 feet log measure and at least 15 per cent of the land has been cleared for agricultural purposes and the land is occupied by the owner or tenant and upon payment by the owner of \$10 per 1,000 feet log measure for pine trees in excess of 10,000 feet log measure less any allowance in respect of work done to the timber stand by the owner or his predecessors in title,

and such order may be registered in the proper registry or land titles office.

(4) Where an order is made under subsection 3, the licensee shall be compensated by an amount to be determined by the Minister or by being given a licence to cut timber elsewhere. Compensation.

(5) When lands are released and discharged from the reservation of pine trees under subsection 3, the regulations made under *The Crown Timber Act* shall apply to any cutting of timber on such lands until a by-law is passed by a county or township under section 3 of *The Trees Act* affecting such lands. 1949, c. 81, s. 4 (2). Cutting of timber, subject to regulations. Rev. Stat., cc. 82.399.

58. Where a township or part of a township is open for settlement under Part I or Part II, the Lieutenant-Governor in Council may direct with regard to any part of the township or any particular lots therein located or sold after the date of the Order in Council that the mines and minerals shall be reserved to the Crown, and in the absence of any such direction the mines and minerals shall pass to the patentee when the land is patented. R.S.O. 1937, c. 33, s. 54. Mines and minerals.

59.—(1) In the case of land patented before the 6th day of May, 1913, the mines and minerals therein shall be deemed to have passed to the patentee by the letters patent, and every reservation thereof contained in the letters patent or by statute shall be void. R.S.O. 1937, c. 33, s. 55 (1). Mines and minerals on certain lands to be deemed to have passed to patentee.

(2) Subsection 1 shall not apply where,

- (a) the mines and minerals or any of them in any land Exception as to application of subsection 1.

Rev. Stat.,
c. 236.

have been alienated or disposed of under *The Mining Act* or any mining Act previously in force;

- (b) the mines or minerals or any of them have reverted or may hereafter revert to the Crown through abandonment, cancellation, forfeiture or otherwise. 1943, c. 28, s. 31.

Lands
patented
after May
6th, 1913.

- (3) In the case of lands patented after the 6th day of May, 1913, mines and minerals shall pass to the patentee unless expressly reserved by the letters patent. R.S.O. 1937, c. 33, s. 55 (2).

Certificate.

- (4) The Minister of Mines or the Deputy Minister of Mines may issue a certificate as to the issue of letters patent with respect to any lands, mines or minerals affected by this section and every such certificate shall be received and recorded in the registry or land titles office for the registry division, city, county or district in which such lands, mines or mineral rights are situate. 1943, c. 28, s. 31.

Ores, etc.,
to be
treated in
Canada.

60.—(1) All lands patented or otherwise disposed of under this Act after the 12th day of April, 1917, shall be subject to the condition that all ores or minerals raised or removed therefrom shall be treated and refined within Canada, so as to yield refined metal or other product suitable for direct use in the arts without further treatment, in default whereof the patent or other form of title of such lands shall be null and void, and the lands shall revert to and become vested in His Majesty, his heirs and successors freed and discharged of any interest or claim of every other person.

Power to
exempt
lands.

- (2) The Lieutenant-Governor in Council is hereby authorized to exempt any lands from the operation of this section for such period of time as to him may seem proper. R.S.O. 1937, c. 33, s. 58.

Right to
make roads
to be re-
served in
sales, etc.

61.—(1) In all sales, free grant locations, leases, licences of occupation, mining claims and other dispositions of public lands or mining lands or mining rights, there shall be reserved to the Crown the right to construct on the land any colonization or other road or any road in lieu of or partly deviating from an allowance for road without making compensation therefor, and such right whether or not it is expressly reserved from the sale, location, lease, licence of occupation, mining claim or other disposition of the land or by the letters patent when issued shall be deemed to be so reserved.

Right to
take wood,
gravel and
other
materials
for roads.

- (2) In all sales, free grant locations, leases, licences of occupation, mining claims and other dispositions of public

lands or mining lands or mining rights, where the letters patent have been issued containing a reservation of five per cent of the area for roads, wood, gravel and other materials required for the construction or improvement of any colonization or other road or of any road in lieu of or partly deviating from an allowance for road, may be taken from the land without making compensation therefor or for the injury thereby done to the land from which they are taken, and where the letters patent have been issued without a reservation being made of five per cent of the area for roads, wood, gravel and other materials required for the purposes hereinbefore mentioned may be taken from the land, but compensation shall be paid as provided by *The Public Works Act*.

Rev. Stat.,
c. 323.

(3) The rights mentioned in subsections 1 and 2 may be exercised by the Minister or by any person authorized by him to exercise them on behalf of the Crown. R.S.O. 1937, c. 33, s. 59.

Minister
or person
authorized
by him may
exercise
rights.

62. In all sales, free grant locations, leases, licences of occupation, mining claims and other dispositions of public lands, or mining lands or mining rights, the Minister may reserve from sale any water power or privilege, and such area of land in connection therewith as he may deem necessary for the erection of buildings and plant and the development and utilization of the power, together with the right to lay out and use such roads as may be necessary for passage to and from such water power or privilege and land. R.S.O. 1937, c. 33, s. 60; 1949, c. 81, s. 5.

Reservation
of water
power on
public
lands.

1.

2.

CHAPTER 310

The Public Libraries Act

1. In this Act,

Interpretation.

- (a) "board" in Part I means a public library board, in Part II means a board of management of a public library association, and in Part IV includes both;
- (b) "branch library" means a library maintained as a subsidiary agency and in the same municipality as a public library;
- (c) "Department" means Department of Education;
- (d) "library" means a collection of books which may comprise periodicals, magazines and other printed works for circulation or reference and includes branch libraries, reading rooms, museums, printing and binding bureaux and plants which may be established or used in connection with a library;
- (e) "library co-operative" means a co-operative library association established in accordance with this Act in a county or territorial district;
- (f) "Minister" means Minister of Education;
- (g) "regulations" means regulations made under this Act or *The Department of Education Act*. R.S.O. 1937, c. 283, s. 1; 1947, c. 86, s. 1, amended. Rev. Stat., c. 94.

PART I

PUBLIC LIBRARY BOARDS

2. The provisions of this Part shall apply to every free public library maintained in whole or in part by municipal taxation and established under the provisions of this Part or under the provisions of any Act for which this Part is substituted. R.S.O. 1937, c. 283, s. 2. Application of Part I to free public libraries.

3. A public library may be established in a city, town, village, police village, township, rural school section, union school section or township school area under the conditions and in the manner hereinafter provided. R.S.O. 1937, c. 283, s. 3; 1947, c. 86, s. 2. Where library may be established.

Petition
for estab-
lishment of
library in
city, town
or village.

Rev. Stat.,
c. 243.

4. The council of a city, town or village may, and upon the receipt of a petition (Form 1) signed, in the case of a city or town by at least 60, and in the case of a village by at least 30 municipal electors, shall prepare and submit to the electors in the manner provided by *The Municipal Act* a by-law (Form 2) for the establishment of a public library. R.S.O. 1937, c. 283, s. 4.

In township.

Rev. Stat.,
c. 243.

Police
village,
when not
included;

when
included.

5.—(1) The council of a township may and upon receipt of a petition (Form 1) signed by at least 60 municipal electors, exclusive of those resident within a police village that is not situate wholly in the township, shall prepare and submit to the electors of the township, exclusive of those resident within a police village that is not situate wholly in the township, in the manner provided by *The Municipal Act* a by-law (Form 2) for the establishment of a public library.

(2) No part of any police village situate in more than one township shall be subject to taxation for any public library established for a township.

(3) Where a township contains a police village or police villages, every such police village shall be considered as part of the township for the purpose of establishing a public library under this Part, and any public library established by a police village situate in a township shall, upon the establishment of a township public library, become part of such library, but the property of the police village library shall not be removed from the police village. R.S.O. 1937, c. 283, s. 5.

In police
villages.

6. The council of a township or the councils of townships in which a police village is situate, upon receipt of a petition (Form 1) signed by at least 30 voters resident in the police village, shall prepare and submit to the electors in the police village in the manner provided by *The Municipal Act* a by-law (Form 2) for the establishment of a public library therein. R.S.O. 1937, c. 283, s. 6.

When
council
to pass
by-law.

7.—(1) Where a by-law submitted to the electors under this Part receives the assent of a majority of the electors voting thereon, it shall be the duty of the council, or in the case of a police village situate in more than one township, it shall be the duty of the councils of the townships to pass the by-law without unnecessary delay, and it shall be the duty of the head of every council and of the clerk to sign the by-law.

Notice
of vote to
be given
to Minister.

(2) The clerk of the municipality or the clerks of each of the municipalities in which a by-law has been voted upon by the electors and has received the assent of the electors, shall

forthwith give notice to the Minister in writing of the number of votes for, and the number of votes against, the by-law in the municipality of which he is clerk.

(3) Where the by-law does not receive the assent of the electors no new by-law for the same purpose shall be submitted to the electors in the same calendar year. R.S.O. 1937, c. 283, s. 7. When by-law defeated.

8.—(1) The petition for the establishment of a public library in a school section shall be in a form to be supplied by the Minister (Form 3) and shall be signed by a majority of the public and separate school supporters in the section, and upon filing the petition with an affidavit of the due execution thereof with the clerk of the township or the clerks of the townships in which the section or union school section is situate, or where the section or union school section is situate in unorganized territory with the school trustees of the section, the township clerk or township clerks, or the secretary of the school trustees as the case may be, shall examine the petition, and, if it is found that the petition contains the names of a majority of the public and separate school supporters in the section or union section, shall give notice in writing to the public school trustees and to the separate school trustees, if any, in the school section or union section of the filing of the petition. Petition.

(2) Upon receipt of such notice it shall be the duty of the trustees to make appointments to the board of the public library as hereinafter provided. Appointment to board.

(3) The clerk or secretary, as the case may be, shall forthwith give notice in writing to the Minister of the filing of the petition. Notice to Minister.

(4) A public library established in a school section or in a union school section shall become disestablished, Disestablishment of public library in school section.

(a) when the township or one of the townships in which it is situate establishes a public library in which case the library established by the school section, if in a school section wholly situate in the township, shall become part of the township library, and if only partly situate therein the assets of the school section library may be distributed as the Minister may direct;

(b) when a petition demanding the disestablishment of a public library is signed by a majority of the public and separate school supporters of the school section or union school section and is filed with an affidavit of the due execution thereof with the clerk of the

township or with the clerk of each of the townships in which the section or union section is situate, or in case of a union section not situate in an organized township, with the secretary of the school trustees of the section, it shall be the duty of the clerk, or of each of the clerks, or of the secretary, as the case may be, to give notice in writing to the Minister of the disestablishment of the library. R.S.O. 1937, c. 283, s. 8 (2-5).

Petition.

9.—(1) The petition for the establishment of a public library in a township school area shall be in Form 3 with such alterations as may be necessary and shall be signed by a majority of the public and separate school supporters in the township school area, and upon the filing of the petition with an affidavit of the due execution thereof with the clerk of the township, or, where the township school area extends beyond one township, with the clerk of the township having the greatest equalized assessment within the township school area, the clerk shall examine the petition.

Notice to
Minister
and school
trustees.

(2) If the clerk finds that the petition contains the names of a majority of the public and separate school supporters in the township school area, he shall forthwith give notice in writing to the Minister, to the public school trustees of the township school area, and to the trustees of any separate school in the township school area, of the filing of the petition.

Appointment
of board.

(3) Upon receipt of the notice, it shall be the duty of the trustees to make appointments to the board of the public library as hereinafter provided. 1947, c. 86, s. 4, *part*.

Transfer of
assets of
library asso-
ciation or
mechanics'
institute
to board.

10. A library association established under Part II of this Act or under any former Act relating to mechanics' institutes or library associations, may by resolution passed at an annual meeting of the association or at a meeting specially called for the purpose, declare its desire that the library of the association be transferred to a public library board appointed in the manner provided by this Part, and thereupon a public library board may be appointed and the assets and property of the association may be transferred to it and the necessary by-laws may be passed for that purpose and for the establishment of the library as a public library under this Part, but it shall not be necessary to submit such by-law to the electors. R.S.O. 1937, c. 283, s. 9.

Agreements
for united
action
by boards.

11.—(1) Subject to the regulations and to the approval of the Minister, the boards of two or more public libraries, with the consent of the municipal councils by which such boards were established, may enter into agreements for the

establishment of a union library with or without branches and with or without distributing stations in one or more places agreed upon by the boards.

(2) The agreement shall specify the proportion of the cost of the establishment and maintenance of the union public library to be borne and paid by each of the boards or shall provide for the manner in which such proportion shall be determined, and shall further provide for the manner in which the assets of the union library shall be divided or disposed of in case of a dissolution of the board. R.S.O. 1937, c. 283, s. 10. Terms of agreement.

12. Subject to the regulations and the approval of the Minister and with the consent of the councils by which the boards were established, any two boards may enter into an agreement by which one of them shall receive library service from the other for part or all of the municipality, police village or school section as the case may be, but the board receiving such service shall not be entitled to representation on the board by which such service is rendered. R.S.O. 1937, c. 283, s. 11. Agreement for interchange of library service.

13. Subject to the regulations and to the approval of the Minister, any library co-operative or any municipality, police village, school section or township school area for which a public library has not been established, or any school board or board of education, may enter into an agreement with a public library board for securing library services. 1949, c. 82, s. 1. Agreements for library services.

14. The general management, regulation and control of the library shall be vested in a board which shall be a body corporate by the name of "The Public Library Board" (*inserting the name of the municipality, police village or school section, as the case may be*). R.S.O. 1937, c. 283, s. 13. Public library board.

15. Except as otherwise provided by this Act no person who is a member of any one of the bodies entitled to appoint shall be qualified to be a member of the board and no person shall be appointed a member of the board who is not a British subject or who is less than 21 years of age, or is not a resident of the municipality, police village or school section. R.S.O. 1937, c. 283, s. 14. Necessary qualifications for board.

16.—(1) The board in a city, town or village shall be composed of the mayor in the city or town, or the reeve of a village and three members to be appointed by the council, three to be appointed by the public school board or board of education qualified to deal with public school affairs in the municipality and two by the separate school board, if any. Mode of appointment in cities, towns and villages.

Term of
office, of
first
members;

(2) Of the three members first appointed by the council and public school board, or board of education respectively, one shall be appointed to hold office until the 1st day of February after his appointment, one until the 1st day of February of the following year, and one until the same day in the year next thereafter, and of the two members first appointed by the separate school board, one shall be appointed to hold office until the 1st day of February after his appointment, and one until the 1st day of February in the following year; but every member shall continue to hold office until his successor is appointed.

of subse-
quent mem-
bers.

(3) Subject to the foregoing provisions, each of the members appointed by the council, or public school board, or board of education, shall hold office for three years from the 1st day of February in the year in which he is appointed, and each of the members appointed by the separate school board, for two years from the 1st day of February in the year in which he is appointed. R.S.O. 1937, c. 283, s. 15.

In police
villages.

17.—(1) The board in a police village shall be composed of the chairman of the board of police trustees, and two persons appointed by the police trustees, two persons appointed by the board of the school section or each of the school sections comprised in, or forming part of the police village, and two persons appointed by the separate school board, if any, having jurisdiction in the police village.

Term of
office, of
first
members;

(2) Of the members first appointed by the police trustees and public school board or boards and the separate school board, if any, respectively, one shall be appointed to hold office until the 1st day of February after his appointment, and one until the 1st day of February in the following year, but every member shall continue to hold office until his successor is appointed.

of subse-
quent
members.

(3) Subject to the foregoing provisions, each of the members appointed to the board in a police village shall hold office for two years from the 1st day of February in the year in which he is appointed. R.S.O. 1937, c. 283, s. 16.

In town-
ships,
annual
appoint-
ments.

18. The board in a township shall be composed of the reeve of the township and four members appointed by the township council, one of whom shall be a separate school supporter if there is a separate school in the township, and the appointments shall be made annually, but every member shall continue to hold office until his successor is appointed. R.S.O. 1937, c. 283, s. 17.

In school
sections.

19. The board in a school section shall be composed of five persons, all of whom shall be appointed by the public

school trustees where there is no separate school and where there is a separate school three members shall be appointed by the public school trustees and two members by the separate school trustees, and the appointments shall be made annually. R.S.O. 1937, c. 283, s. 18.

20.—(1) Where there is no separate school in the township ^{In township school areas.} school area, the board shall be composed of five persons appointed by the public school trustees.

(2) Where there is a separate school in the township ^{Idem.} school area, the board shall be composed of three persons appointed by the public school trustees, and two persons appointed by the separate school trustees.

(3) All appointments shall be made annually. 1947, c. 86, <sup>Appoint-
ments
annually.</sup> s. 4, *part.*

21. The board of a union of public libraries shall be com- <sup>Union
boards.</sup> posed of the boards of the public libraries forming the union and the two or more boards shall organize as one board. R.S.O. 1937, c. 283, s. 19.

22. The first appointment of members shall be made at the first meeting of the appointing body after the final passing of the by-law, and in the case of a school section, after the filing of the petition, and the annual appointments thereafter shall be made at the first meeting of the appointing body after the 1st day of January in each year, and any vacancy arising from any cause, other than the expiration of the time for which a member was appointed, shall be filled at the first meeting thereafter of the appointing body, but if for any reason an appointment is not made at the prescribed time, it shall be made as soon as may be thereafter. R.S.O. 1937, c. 283, s. 20. <sup>Time for
making
appoint-
ments.</sup>

23.—(1) In case of a vacancy by death or resignation of a member, or from any cause other than the expiration of the term for which he was appointed, the member appointed in his place shall hold office for the remainder of the term. <sup>Vacancies,
how
filled.</sup>

(2) If a member of the board is convicted of any offence against the criminal laws of Canada, or becomes mentally ill, or absents himself from the meetings of the board for three consecutive months without being authorized by resolution entered upon its minutes, or ceases to be a resident within the municipality or police village, he shall *ipso facto* vacate his seat, and the remaining members shall forthwith declare his seat vacant and notify the appointing body accordingly. R.S.O. 1937, c. 283, s. 21. <sup>Vacancies
by disquali-
fication.</sup>

Members of board not to be parties to contracts, etc.

24.—(1) A member of a board shall not enter into any contract, agreement, engagement or promise, either in his own name or in the name of another, and either alone or jointly with another, in which he has any pecuniary interest, profit or promised or expected benefit, with the board of which he is a member, or have any pecuniary claim upon or receive compensation from the board for any work, engagement, employment or duty on behalf of the board, and every such contract, agreement, engagement or promise shall be null and void, and a member violating the provisions of this section shall *ipso facto* vacate his seat. R.S.O. 1937, c. 283, s. 22 (1).

Proceeding to vacate seat.

(2) On the complaint of any ratepayer of the municipality or police village or school section, or of the remaining member or members of the board, the judge of the county or district court or if he is a member of the board, the master of the Supreme Court shall, on proof of the facts declare the seat vacant, and the secretary of the board shall forthwith notify the appointing body to make a new appointment. R.S.O. 1937, c. 283, s. 22 (2); 1949, c. 82, s. 2.

Saving as to newspaper proprietors, etc.

25. No person shall be disqualified from being a member of a board, or from sitting and voting on such board by reason only of being proprietor of or otherwise interested in a newspaper or other periodical publication which is subscribed for or in which an advertisement is inserted by the board in the regular course of business, if such subscription or advertisement is paid for at the usual rate, but such member shall not be entitled to vote where his own account is in question. R.S.O. 1937, c. 283, s. 23.

Chairman.

26.—(1) The board shall at the first meeting in each year elect one of its number as chairman, who shall hold office for one year and may be re-elected, and he shall preside at meetings of the board when present, and in his absence a chairman may be chosen *pro tempore*.

Right to vote.

(2) The chairman shall have the same right of voting as the other members of the board, and no other, and any question upon which there is an equality of votes shall be deemed to be negatived. R.S.O. 1937, c. 283, s. 24.

Regular meetings.

27.—(1) The board shall hold regular meetings at least once in every month from February to June inclusive and from September to January inclusive and at such other times as it may think fit, provided that in a municipality having a population of less than 2,000 the board may hold its regular meetings in alternate months only.

Special meetings.

(2) The chairman or any two members may summon a special meeting of the board by giving at least two days

notice in writing to each member, specifying the purpose for which the meeting is called.

(3) The presence of a majority of all the members constituting a board shall be necessary for the transaction of business at any general or special meeting. Quorum.

(4) All orders and proceedings of the board shall be entered in books to be kept for that purpose and after confirmation by the board shall be signed by the chairman. Records of board.

(5) The orders and proceedings so entered and purporting to be so signed, shall be deemed to be the originals thereof, and such books may be produced and read as evidence of the orders and proceedings in any judicial proceedings. R.S.O. 1937, c. 283, s. 25. Evidence of records.

28.—(1) The board shall keep distinct and regular accounts of its receipts, payments, credits and liabilities and the accounts shall be audited by the municipal auditors in like manner as the accounts of a municipality, and shall after having been audited be laid before the council by the board. Accounts and audit.

(2) All books and records shall be open to the inspection of the Minister or to any person appointed to act on his behalf. R.S.O. 1937, c. 283, s. 26. Inspection of books by Minister.

29. Subject to the regulations an annual report shall be transmitted to the Minister for each library on forms supplied for the purpose. R.S.O. 1937, c. 283, s. 27. Annual report.

30. A board shall not in any year purchase any land or erect any buildings or make any addition or alterations thereto and pay the cost thereof from current revenue without the authority of the municipal council if the cost exceeds a sum equal to one-fifth of the amount to which the board is entitled as a public library rate for the year. R.S.O. 1937, c. 283, s. 28. Limit on expenditure on capital account.

31.—(1) Subject to the restrictions and provisions herein-after contained, the board shall have power to acquire by purchase, expropriation, lease or otherwise, all lands required for library and branch library purposes, and to erect, lease or otherwise procure the necessary buildings therefor, and hold, maintain and repair the same, and shall have power, with the consent of the municipal council, to sell, exchange or otherwise dispose of any lands or buildings which may no longer be required for such purposes. Powers of board as to acquiring and holding property.

(2) The provisions of *The Municipal Act* as to taking land compulsorily and making compensation therefor and as to the Compensation for expropriated land. Rev. Stat., c. 243.

manner of determining and paying the compensation shall *mutatis mutandis* apply to the public library board and to the exercise by it of the powers conferred by this section, and where any act is by any of such provisions required to be done by the clerk of a municipality, or at the office of such clerk, the like act shall be done by the secretary of the board, or at his office, as the case may be. R.S.O. 1937, c. 283, s. 29.

Establish-
ment of
branch
libraries.

32. A board may establish and maintain one or more branch libraries, distributing stations, reading rooms, art galleries, museums, or any of them, in connection with the library, and may also establish, operate and maintain printing and binding bureaux, or any shop or plant for producing anything required for the library or its grounds. R.S.O. 1937, c. 283, s. 30.

Duty of
board as to
equipment
of library.

33. The board shall purchase books and may purchase newspapers, periodicals, magazines and other printed matter, maps, pictures and specimens illustrative of literature, arts and the sciences, and apparatus and facilities for illustrating by lantern or moving picture, and all other things required for the library, and shall do all things necessary for keeping the same in a proper state of preservation and repair, and shall provide the necessary fuel, lighting and other accommodations. R.S.O. 1937, c. 283, s. 31.

Appointment
of officers
and
servants.

34. Subject to the regulations the board shall appoint a librarian, a secretary and a treasurer, and may appoint such other officers and servants as may be required, but one person may be appointed to any two or more offices; all officers and servants shall hold office during the pleasure of the board. R.S.O. 1937, c. 283, s. 32.

Gratuities to
employees
on
retirement.

35.—(1) The board of any public library established under this Part may, subject to approval of the municipal council, pay to any employee retiring by reason of advanced age, ill-health or other disability such gratuity or retiring allowance as the board may think proper. R.S.O. 1937, c. 283, s. 33 (1); 1940, c. 24, s. 3.

Super-
annuation
and insur-
ance funds
in cities of
over 50,000.

(2) The board of a public library in a city of more than 50,000 inhabitants may establish a fund for providing pensions or life insurance or both in the interest of the employees of the board with or without requiring contributions from such employees and may make from time to time such payments as may be necessary for the establishment and maintenance of such fund, but such fund shall not be established until the council of the city has by by-law approved of the proposed action of the board. R.S.O. 1937, c. 283, s. 33 (2).

36.—(1) Subject to the regulations the board may make ^{Rules.} rules for the use of the library, reading rooms and museums, and for the admission of the public thereto, and for regulating all other matters and things connected with the management of the library, reading rooms and of all property under its control, and may impose penalties for breaches of the rules, not exceeding \$10 for any offence.

(2) Such rules shall be binding on all persons concerned <sup>Promulga-
tion of
rules.</sup> after they have been published once a week for at least two weeks in a newspaper published in the municipality or police village and if no newspaper is published therein, they shall be posted in a conspicuous place within the library, and the board shall have for distribution printed copies of the rules, or keep the rules permanently posted in written or printed form in a conspicuous place in the library. R.S.O. 1937, c. 283, s. 34.

37. Nothing herein shall preclude the recovery of the value <sup>Right to
damages.</sup> of articles or things damaged, or the amount of damage sustained from persons liable for the same. R.S.O. 1937, c. 283, s. 35.

38. Subject to the regulations the Minister, upon the ap- <sup>Closing
library for
limited
period.</sup> plication of the board, may authorize the board to close the library for a limited number of days when in the opinion of the board such closing is necessary or expedient and if authorized by the regulations the board may close the library for a period not exceeding two successive weeks at any time during the period between the 1st day of June and the 31st day of August in each or any year. R.S.O. 1937, c. 283, s. 36.

39. A board may permit any part of its library buildings <sup>Permitting
use of
building.</sup> to be used for lectures or meetings to be held for patriotic, charitable or educational purposes, but nothing in this section shall be construed to mean that a board may furnish free light and heat to any municipal body that may occupy a room or rooms in the library or to any other tenant. R.S.O. 1937, c. 283, s. 37.

40. The board shall submit to the municipal council or <sup>Estimates
of board.</sup> councils and in the case of a school section not situate in an organized township to the trustees of the school section, on or before the 1st day of March in each year, a detailed estimate of the several sums required for the ensuing financial year to pay,

- (a) the interest on any money borrowed, as hereinafter mentioned;

- (b) the amount required to be raised for the sinking fund, or to pay any instalment of principal and interest;
- (c) the expense of maintaining and managing the libraries, reading rooms, museums, evening classes, art schools and all other activities under its control;
- (d) contributions to an employees' pension fund;
- (e) retiring allowances to employees retired by reason of age or disability; and
- (f) amounts required to be paid under statutory or other authority. 1944, c. 56, s. 7.

Annual
rate.

41.—(1) Where a public library is established for a city, town, village, township, police village, township school area or school section, the council of the city, town, village or township, the council or councils of the township or townships in which the police village, township school area or school section is situate, or the trustees of a school section in unorganized territory, as the case may be, in addition to all other rates shall levy in each year on the rateable property in the city, town, village, township, police village, township school area or school section for which the public library is established, a special rate, to be called the Public Library Rate, sufficient to provide the amount estimated by the board as hereinbefore provided, but no such rate shall be levied that will yield more than 50 cents per capita of population of the municipality, police village, township school area or school section according to the last revised assessment roll except by a vote of a majority of the council or trustees present and voting thereon. 1949, c. 95, s. 11 (1).

Power to
carry out
agreements
to spend
stated
annual
sum.

(2) Notwithstanding anything in this section the council of any municipality that prior to the 1st day of January, 1917, in any way whatsoever entered into any contract with any person, persons or corporation to expend annually not less than a stated sum for public library maintenance, by reason of receiving a gift, may levy and assess each year a public library rate sufficient to provide a sum to carry out the terms of the contract entered into. R.S.O. 1937, c. 283, s. 39 (2).

When
council
may issue
debentures
on requisition
of
board.

42.—(1) Where a board requires the council to raise money for the purpose of acquiring a site, or purchasing, erecting or remodelling necessary buildings, and, in the first instance, for obtaining books and other things required for the library, the council may, on the requisition of the board, raise such money by a special issue of debentures of the municipality, to be called Public Library Debentures, provided

that the annual amount required for debt charges on the debentures with the annual debt charges for existing debentures does not exceed one-half of the public library rate claimable by the board for the year in which the requisition is made, and in the event of a council refusing to raise such sum by debentures, and if the board so requires, the question shall be submitted by the council to a vote of the electors of the municipality entitled to vote on by-laws for the creation of debts in the manner provided by *The Municipal Act* and in the event of the assent of the electors being obtained, it shall be the duty of the council to pass a by-law for raising the amount in the manner provided by that Act but it shall not be necessary to submit such by-law to a vote of the electors. R.S.O. 1937, c. 283, s. 40 (1); 1946, c. 80, s. 1. Rev. Stat., c. 243.

(2) Notwithstanding anything hereinbefore provided in this Act, a municipal corporation may issue debentures for the purposes of this Act according to the provisions of *The Municipal Act*. Power to issue debentures without requisition.

(3) During the currency of the debentures issued, the council shall withhold and retain, as a first charge on the annual rate the amount required to be raised in the year to provide for the payment or redemption of the debentures and the interest thereon. Provision for payment out of annual rate.

(4) All moneys levied or raised shall be received by the treasurer of the municipality in the same manner as other municipal funds, and be paid out by him on the orders of the board, save as to the amount required to be raised in the year to provide for the payment or redemption of the debentures and the interest thereon. R.S.O. 1937, c. 283, s. 40 (2-4). How moneys raised to be dealt with.

43. The council of any municipality may at any time make a grant in money or lands or buildings to a board for public library purposes. R.S.O. 1937, c. 283, s. 41. Grants from municipal councils.

(NOTE.—As to power of public library board to receive gifts, devises or bequests, see *The Mortmain and Charitable Uses Act*, Rev. Stat., c. 241, s. 13.)

44. All libraries established under this Part shall be open to the public free of charge provided, however, that the board may impose such fee as seems proper on non-residents who may desire to use the library. R.S.O. 1937, c. 283, s. 42. No charge to be made except to non-residents.

45. The board shall permit the public to have free access to the circulating and reference books of the library but the board may, with the approval of the Minister, prohibit free access to any particular section of the library or to any class of books. R.S.O. 1937, c. 283, s. 43. Public to be admitted freely.

Children
not to be
excluded.

46. No board shall make a rule for the establishment of an age limit for children who may receive library service. R.S.O. 1937, c. 283, s. 44.

Use of
public
library
by teachers'
institute.

47. The teachers' institute of any inspectorate in which a public library is situate may place the books held by such institute in any public library subject to the approval of the board, and in such cases every member of such teachers' institute shall be entitled to use the public library on the same terms as residents of the municipality in which the library is situate. R.S.O. 1937, c. 283, s. 45.

Affiliation
of farmers'
institute or
women's
institute.

48. Every farmers' institute or women's institute may affiliate with any public library on terms to be agreed upon with the board, and in the event of such affiliation every member of such farmers' institute or women's institute shall be entitled to use the library on the same terms as residents of the municipality in which the library is situate. R.S.O. 1937, c. 283, s. 46.

Public
libraries
continued.

49. Every public library heretofore established or continued as a free public library under any Act respecting public libraries is continued and shall be subject to the provisions of Part I and Part IV of this Act. R.S.O. 1937, c. 283, s. 47.

PART II

PUBLIC LIBRARY ASSOCIATIONS

Incorporation
of
association.

50. A public library association may be incorporated in the manner hereinafter provided, for the purpose of establishing a public library in any community situated in a municipality or school section that has no public library established under Part I of this Act. R.S.O. 1937, c. 283, s. 48.

Declara-
tion,
registra-
tion and
notice to
Minister.

51. Ten or more persons, being British subjects and not less than 21 years of age, may form an association for establishing a public library by making a declaration in duplicate on forms obtained from the Minister, and filing one copy with an affidavit of the due execution thereof in the office of the registrar of deeds for the registry division in which the public library is to be situated, and transmitting to the Minister one copy, with affidavit, and bearing the certificate of registration. R.S.O. 1937, c. 283, s. 49.

Fee of
registrar.

52. For the filing of the declaration and for every certified copy the registrar shall be entitled to a fee of 50 cents. R.S.O. 1937, c. 283, s. 50.

53. The persons whose names are subscribed to the declaration, while they remain members, and all persons not under 21 years of age who become members of the association and while they remain so, shall be a body corporate to be known as "The Public Library Association" inserting the name of the unincorporated settlement or the village, town or city, as the case may be, in which the library is to be established but the name of a township or county may not be used and any name chosen shall be subject to the approval of the Minister. R.S.O. 1937, c. 283, s. 51.

Corporate name.

54. A library association may not establish a branch library, but, subject to the approval of the Minister, may establish one or more distributing stations. R.S.O. 1937, c. 283, s. 52.

Not to establish branch libraries.

55. The membership shall be composed of individuals and not families or other groups of persons, and a register of the membership shall be kept showing the names of the persons, the dates of joining or of renewal of membership, and of expiration of membership, and records of fees paid, and in the register it shall be indicated which persons are 21 years of age or over. R.S.O. 1937, c. 283, s. 53.

Who may be members.

56. Any person, regardless of age, may become a member of the association, and all persons over 15 years of age shall be granted membership on the payment of a uniform fee, but a special uniform fee may be fixed for children under 15 years of age. R.S.O. 1937, c. 283, s. 54.

Persons under age.

57. No person shall vote or shall be elected as a member of the board who is not a British subject of the full age of 21 years. R.S.O. 1937, c. 283, s. 55.

Vote.

58. Where any persons are granted free use of the library, such persons shall be considered as patrons and not as members of the association. R.S.O. 1937, c. 283, s. 56.

Patrons.

59. If from any source the association receives payment for free use of the library or for reduced fees for certain persons, the said persons shall be considered as patrons and not members of the association. R.S.O. 1937, c. 283, s. 57.

Patrons on special terms.

60. The general management, regulation and control of the library shall be vested in and exercised by a board of management, which shall be composed of not less than five and not more than nine persons. R.S.O. 1937, c. 283, s. 58.

Board of management, how composed.

61. The persons whose names are subscribed to the declaration of incorporation shall meet within 30 days after

First election.

the filing thereof and shall elect from among their number the members of the board. R.S.O. 1937, c. 283, s. 59.

Term of
office.

62. The members so elected shall hold office until their successors are elected. R.S.O. 1937, c. 283, s. 60.

Quorum.

63. Three members shall form a quorum for transacting the business of the board. R.S.O. 1937, c. 283, s. 61.

Annual
meeting.

64. On the third Monday in January in each year thereafter the members of the association shall hold their annual meeting and elect the members of the board for the year, and if for any reason it is not found practicable to hold the annual meeting on the third Monday in January the board shall arrange for the association to meet as soon thereafter as possible, giving notice to the members of the change of the date of meeting. R.S.O. 1937, c. 283, s. 62.

President,
secretary,
librarian,
etc.

65. The board shall, as soon after the election as is convenient, elect one of its members as president, and shall also appoint a secretary, treasurer, and librarian and such other officers as may be necessary for the purposes of the association. R.S.O. 1937, c. 283, s. 63.

Vacancies.

66. In the case of a vacancy by death or resignation of a member, or by any cause other than the expiration of the term for which he was appointed, the remaining members of the board shall appoint a member of the association to fill the vacancy, but should the board be reduced to less than four in number, a meeting of the association shall be called for the purpose of filling the vacancies. R.S.O. 1937, c. 283, s. 64.

Members
of board
not to be
interested
financially
in business
of library.

67. A member of the board shall not transact, with the board of which he is a member, any business in which he has a pecuniary interest and a member violating the provisions of this section shall *ipso facto* vacate his seat and every contract or agreement entered into by the board in which any member thereof is so interested shall be null and void, but no person shall be disqualified from being a member of the board by reason only of being interested in a newspaper which is subscribed for or in which an advertisement is inserted by the board if payment is at the usual rates. R.S.O. 1937, c. 283, s. 65.

Mode of
giving
notice of
meetings.

68. Notice of any meeting of the association may be given by mailing a letter or postal card at least three days before the date set for the meeting to each member of the association, or by posting a notice in the library and in a prominent

place not in the library for a period of at least two weeks before the date set for the meeting. R.S.O. 1937, c. 283, s. 66.

69. Subject to the regulations, the board shall provide suitable accommodations for the library, and shall have power to procure, erect or rent buildings for that purpose, and to purchase books, periodicals, newspapers and other reading material for the library. R.S.O. 1937, c. 283, s. 67. Duties and power of board as to buildings and equipment.

70. The board shall make rules for the management and use of the library and reading rooms and for conducting the business of the board, for holding regular and special meetings, for defining the duties of the officers of the board, and the fees to be paid by members, and generally for such other matters, not inconsistent with this Act or with the regulations, as may be necessary for promoting the usefulness of the public library. R.S.O. 1937, c. 283, s. 68. Rules.

71. Minutes of all the proceedings of the board shall be kept and entered in books to be provided for that purpose by the board. R.S.O. 1937, c. 283, s. 69. Minutes.

72. The board shall keep distinct and regular accounts of its receipts, payments, credits and liabilities, and the accounts shall be audited for the year before the annual meeting of the association by two members of the association not members of the board, to be appointed by the chairman of the board. R.S.O. 1937, c. 283, s. 70. Accounts.

73. Subject to the regulations, an annual report shall be transmitted to the Minister on forms supplied for the purpose. R.S.O. 1937, c. 283, s. 71. Annual report.

74. All books and records of the library shall be subject to the inspection of the Minister or anyone appointed for the purpose of inspection by the Minister. R.S.O. 1937, c. 283, s. 72. Inspection.

75.—(1) The Minister may effect a dissolution of a public library association where, When association may be dissolved.

(a) the membership does not include five persons who are of the full age of 21 years and five other persons;

(b) no board has been organized for a period of one year. R.S.O. 1937, c. 283, s. 73 (1).

(2) A public library association shall *ipso facto* become dissolved where, When to become dissolved ipso facto.

(a) a board fails or neglects to keep the library open for one year;

(b) a board fails to furnish an annual report as required by this Act or by the regulations, for two consecutive years. R.S.O. 1937, c. 283, s. 73 (2); 1949, c. 82, s. 4.

Action by
Minister
after dis-
solution.

(3) After the dissolution of the corporation the Minister may take possession of all its books, magazines and periodicals and dispose of them as he may deem proper, but nothing herein shall confer any authority or control over any land belonging to a board or library association. R.S.O. 1937, c. 283, s. 73 (3).

Transfer
of assets
on estab-
lishment of
public
library
under Part I.

76. Where the establishing of a public library under Part I is proposed, the association may, at its annual meeting or at a special meeting to be called for the purpose, by resolution declare that its assets and property shall be transferred to the public library board after the passing of a by-law under Part I, and the board of the association shall transfer the assets and property to the public library board appointed under Part I as directed in the resolution of the association, and after such transfer the association shall be dissolved. R.S.O. 1937, c. 283, s. 74.

Transfer
of books,
etc., to
board on
dissolution
of associa-
tion.

77. Where a library or a collection of books exists that was the property of an association which has been dissolved under this Part, and a public library has been established under Part I, the Minister may transfer to the public library board appointed under Part I the books of the former association and may transfer any money received as insurance on books of the former association that were destroyed or damaged by or through fire, and the custodian of the books and magazines or money or both shall transfer the said books or money or both as instructed by the Minister. R.S.O. 1937, c. 283, s. 75.

Present
libraries
continued.

78. Every public library heretofore established or continued as a public library of a public library association under any Act respecting public libraries or mechanics' institutes is continued, and shall be subject to the provisions of Part II and Part IV of this Act. R.S.O. 1937, c. 283, s. 76.

PART III

COUNTY AND DISTRICT LIBRARY CO-OPERATIVES

Establish-
ment, in
counties.

79. The council of a county, upon receipt of a petition signed by the duly authorized officers of at least 50 per cent of the total number of library boards and boards of management established under this Act within the county, may after

the approval of the petition by the Minister pass a by-law establishing such boards as a county library co-operative, to be known as "The County Library Co-operative". 1947, c. 86, s. 5, *part*.

80. The Minister, upon receipt of a petition signed by the duly authorized officers of at least five library boards and boards of management established under this Act in a territorial district, may establish such boards as a district library co-operative to be known as "The District Library Co-operative". 1947, c. 86, s. 5, *part*. In territorial districts.

81. In addition to the library boards and boards of management originally constituting a co-operative, any other library boards, boards of management, school boards and such other organizations as the Minister may approve, within the county or territorial district, may become members of the co-operative by agreement with the board of the co-operative, and the agreement shall be filed with the Minister. 1947, c. 86, s. 5, *part*. Membership.

82.—(1) The management, regulation and control of a county or district library co-operative shall be vested in a board to be known as "The County (or District) Library Co-operative Board" (*inserting the name of the county or district*), and the board shall be responsible to the members of the co-operative. Control vested in board.

(2) The board of a county library co-operative shall be composed of the warden of the county and six members appointed by the county council, three of whom shall be members of the county council. Composition of board, in counties;

(3) The board of a district library co-operative shall be composed of seven members, of whom four shall be appointed by the members of the co-operative and three by the Minister. in territorial districts.

(4) Except in the case of a newly established library co-operative, all appointments to the board of a library co-operative shall be effective on the 1st day of January and shall be for a period of one year. 1947, c. 86, s. 5, *part*. Annual appointments.

83. The purpose of a library co-operative shall be to purchase and distribute books for circulation by its member organizations. 1947, c. 86, s. 5, *part*. Purpose of library co-operative.

PART IV

GENERAL PROVISIONS

84. Subject to the provisions of any statute in that behalf, the Minister, with the approval of the Lieutenant-Governor in Council, may make regulations, Regulations.

- (a) for the apportionment and distribution of all money appropriated by the Legislature for library purposes;
- (b) for delegating to the Minister power to make special grants to any board;
- (c) for the establishment, organization, management, accommodations and rules of public libraries;
- (d) for the establishment, organization, management and courses of instruction of library schools, examinations of students, and for the issuance of certificates to successful students at library schools;
- (e) governing the qualifications of librarians and assistants and library clerks in public libraries;
- (f) for conducting the examinations and practical tests prescribed by the regulations and settling the results thereof;
- (g) for granting temporary, interim, special permanent and renewed certificates of qualification to librarians and assistants;
- (h) for accepting such courses and examinations as the Minister may deem adequate for the academic and professional training of librarians and assistants;
- (i) to suspend or cancel any certificate of qualification granted by the Department;
- (j) for the appointment of an examination board for work in connection with examinations in librarianship and in the general education of candidates wishing to qualify as librarians and assistants, and for prescribing the fees to be paid to members of the examination board, other examiners and presiding officers;
- (k) for the management, use and circulation of the travelling libraries of the Department, and for prescribing the terms upon which they may be obtained by borrowers;
- (l) for the management and organization of library institutes. R.S.O. 1937, c. 283, s. 77; 1946, c. 80, s. 2; 1947, c. 86, s. 6.

With-
holding
grant on
default
of board.

85. Where a board in any year fails to comply with the regulations, the Minister may withhold the whole or any part of the Government grant payable to the board for that year. R.S.O. 1937, c. 283, s. 78.

86. Subject to the regulations, the Minister may authorize to be paid out of any money appropriated for library purposes, Payments out of legislative grants, what authorized.

- (a) grants to boards for public libraries, branch public libraries and county or district library co-operatives; 1947, c. 86, s. 7.
- (b) salaries and expenses of officers of the Department employed in work in the interest of libraries in general, and in giving special instructions to boards and librarians;
- (c) the cost and preparation of books, pamphlets, blueprints, plans of library buildings and of library equipment, engravings, models, manuscripts, photographs, lantern slides, moving-picture films, phonograph records, library supplies, library equipment, apparatus for demonstrating and illustrating library methods, and of such other apparatus or things for libraries or for promotion, organization and advancement of libraries as the Minister may deem necessary and useful;
- (d) the cost of experimenting in the interest of new and improved library methods, and of purchasing the copyright or copyright privileges of any publication useful in the promotion of librarianship and of libraries;
- (e) the cost of library publicity in the interest of libraries as institutions for popular education, and for the purpose of encouraging the establishing of libraries, including cost of publication, preparation of manuscripts, engravings, and the fees and expenses of speakers;
- (f) the expenses of librarians and other library experts to meet in conference with officials of the Department for the purpose of discussing library affairs, and of any librarian or other library expert to represent the Department at a convention, at a library, or at any place for the promotion of library interests;
- (g) expenses incurred in holding meetings of library institutes;
- (h) the cost of fees and expenses of members of an examining board in connection with examination work and with meetings for the discussion of examinations;
- (i) the cost of storage, packing and shipping of books upon which the Minister holds a claim. R.S.O. 1937, c. 283, s. 79, cls. (b-i).

Establishment and maintenance of travelling libraries.

87.—(1) Subject to the regulations, the Minister may establish and maintain travelling libraries out of such sums as may be appropriated for that purpose, and may purchase books, pamphlets, pictures, phonograph records, maps, globes, charts, lantern slides, moving-picture films and lanterns and appliances, objects and specimens for illustrating the arts, sciences and literatures, book-cases and other containers, and library equipment, and may pay for transportation, rent and storage and librarian's service at distributing centres, and for publicity and for cataloguing, classifying and annotating lists of books, and may employ and pay assistants to aid in circulating the libraries and to operate apparatus, demonstrate and lecture, and may pay the travelling expenses of the assistants and of persons appointed to perform librarian's service.

Extending use of travelling library to certain institutions.

(2) Subject to the regulations, the Minister may extend the use of travelling libraries to schools, colleges, universities, other educational institutions and charitable institutions in the Province, and may procure the necessary requirements and organization to render special service to such schools and other institutions. R.S.O. 1937, c. 283, s. 80.

Establishment and maintenance of courses of home study.

88. Subject to the regulations, the Minister may establish a bureau of home study for the benefit of the people of the Province, and may pay the cost thereof from any money voted by the Legislature for public libraries or for travelling libraries, and may pay for,

- (a) the compilation of reading courses by the specialists;
 - (b) the compilation and annotation of bibliographies;
 - (c) written lessons of instruction for study and practice.
- R.S.O. 1937, c. 283, s. 81.

Application of appropriation for library training schools.

89. Subject to the regulations, money appropriated for library school purposes may be applied under the direction of the Minister, in providing schools and classes for the training of librarians and assistants, for holding examinations of persons desiring to qualify in librarianship and as assistants in libraries, and providing accommodation for such schools, classes and examinations, for the payment of the fees and expenses of the instructors and examiners, for providing supplies and equipment for such schools, classes and examinations, for the payment of the travelling expenses of students and travelling and board and lodging expenses of students holding positions in small libraries when the Minister deems it necessary or expedient, and for such other purposes in connection with the qualifications of librarians and assistants in lib-

raries and the promotion of their efficiency and usefulness, as the Minister may deem necessary and expedient. R.S.O. 1937, c. 283, s. 82.

90. Subject to the regulations, the Minister may,

Provision
for establish-
ment and
meetings of
library
institutes.

- (a) provide for the establishment of library institutes and for the holding of the meetings thereof;
- (b) employ library experts to attend library institute meetings and pay their travelling and other necessary expenses in going to, staying at and returning from the meetings, but nothing shall be paid to them for services;
- (c) pay the travelling and other necessary expenses of one delegate from each board in attending a meeting of the institute. R.S.O. 1937, c. 283, s. 83.

91. The judge of the county or district court, upon the request of the board of any public library within his jurisdiction, may appoint the janitor to be a special constable whose special duty it shall be to preserve the peace in the rooms of the library and in the building in which the library is situate, and to prevent the stealing, injuring or destroying of the property of the board or association, and to apprehend offenders, and he shall have generally all the powers and privileges and be liable to all the duties and responsibilities which pertain to the office of constable. R.S.O. 1937, c. 283, s. 84.

Special
constable.

92. Any person who wilfully interrupts or disquiets a public library, reading room, museum, art school or any class in connection therewith, by rude or indecent behaviour, or by making a noise either within the building or so near thereto as to disturb the persons using the same, shall be guilty of an offence and on summary conviction shall be liable, for each offence, to a penalty of not more than \$20. R.S.O. 1937, c. 283, s. 85.

Misconduct
in public
library.

SCHEDULE

FORM 1

(Sections 4, 5 and 6)

PETITION

To the Council of.....

We, the undersigned electors of the said City of.....
 (or as the case may be), respectively, pray that a public library may be
 established in this municipality under *The Public Libraries Act*.

R.S.O. 1937, c. 283, Form 1.

FORM 2

(Sections 4, 5 and 6)

BY-LAW FOR ESTABLISHING A PUBLIC LIBRARY

A by-law to provide for the establishment of a public library in the
 City of.....(or as the case may be).

Whereas.....electors have petitioned the council of the said City
 of.....(or as the case may be), praying for the establishment
 of a public library under *The Public Libraries Act*.

Be it therefore enacted by the said council that:

1. In case the assent of the electors is given to this by-law, a public
 library be established in this municipality in accordance with the pro-
 visions of *The Public Libraries Act*.

2. The votes of the electors shall be taken on this by-law on.....
 the.....day of....., 19....., commencing at.....o'clock in
 the forenoon and continuing until.....o'clock in the afternoon, at the
 undermentioned places: [*Here insert (1) the wards; (2) the polling sub-
 divisions; (3) the places for holding the poll and the names of the deputy
 returning officers*].

3. On the.....day of.....next, at his office in the.....
 at.....o'clock in the.....noon, the mayor (or reeve or as the case
 may be), shall appoint in writing, signed by him, two persons to attend
 at the final summing up of the votes by the clerk, and one person to attend
 at each polling place on behalf of the persons desirous of promoting, and
 a like number on behalf of the persons desirous of opposing the passing of
 this by-law.

4. The clerk shall attend at the.....at the hour of.....
 o'clock in the.....noon, on the.....day of....., 19.....,
 to sum up the number of votes given respectively for or against the by-law.

A. B.,
 Mayor (or Reeve).
 C. D.,
 Clerk.

Passed the.....day of....., 19.....

Notice by Clerk

The above is a true copy of a proposed by-law which will be taken
 into consideration by the council of.....after one month from the
day of....., 19....., being the date of the first publica-
 tion thereof, and the polls for taking the votes of the electors will be
 held at the hour, day and places named in the by-law.

R.S.O. 1937, c. 283, Form 2.

FORM 3

(Sections 8 (1), 9 (1))

PETITION FOR ESTABLISHMENT OF PUBLIC LIBRARY IN SCHOOL SECTION

PETITION for the establishment of a Public Library in School Section
(or School Sections) in.....

We, the undersigned, constituting a majority of the public and separate school supporters in the said section (or sections) pray that a public library may be established in and for the said school section (or sections) under and subject to the provisions of *The Public Libraries Act*.

Dated this.....day of....., 19.....

Signatures

Addresses

Witness: }

Province of Ontario,
 County (or District) of..... }
 To Wit.

I,.....of the.....of.....,
 (occupation)....., make oath and say:

1. That I was actually present and did see the above petition signed by the persons whose names are thereto subscribed as petitioners.

2. That I believe the said petition to have been signed in good faith and that the signatories are all of them supporters of public or separate schools.

3. That I am a subscribing witness to the said petition.

Sworn before me at the..... }
 of.....in the County (or }
 District) of..... }
 this.....day of....., 19..... }

A Commissioner, etc.
 (or J.P.)

I,.....of the.....of.....,
 being the clerk of the township of.....(or in the case of
unorganized territory) being the secretary of the public school (or separate
 school) board in school section No.....in the
 township of.....(or as the case may be) do certify:

That I have examined the above petition and that the names subscribed thereto are the names of persons entitled to be and who are assessed as public and separate school supporters in school section No. in the township of.....

That the number of names subscribed to the said petition constitute a majority of the public and separate school supporters in the said section.

Dated this.....day of....., 19.....

Clerk of the Township (or secretary of the board of
 public or separate schools)

R.S.O. 1937, c. 283, Form 3.

CHAPTER 311

The Public Officers Act

1. No person shall be employed in any public office in Ontario who is not a British subject by birth or naturalization, but nothing in this section shall prevent the employment of any person for a temporary purpose by the Government of Ontario or by any commission acting for or on behalf of the Crown, when in the opinion of the Government or of such commission such employment is in the public interest. R.S.O. 1937, c. 16, s. 1.

Public officer
to be British
subject.

2.—(1) It shall not be necessary, upon the demise of the Crown, to renew any commission, by virtue whereof any public officer or functionary in Ontario held his office or profession, during the previous reign, but a proclamation shall be issued by the Lieutenant-Governor, authorizing all persons in office who held commissions under the late sovereign and all functionaries who exercised any profession by virtue of any such commissions, to continue in the due exercise of their respective duties, functions and professions, and such proclamation shall suffice, and the incumbents shall, as soon thereafter as may be, take the usual and customary oath of allegiance before the proper officer or officers thereunto appointed.

Commissions
continued on
demise of the
Crown.

(2) The proclamation having been issued and oath taken, every public officer and functionary shall continue in the lawful exercise of the duties and functions of his office or profession, as fully as if appointed *de novo* by commission derived from the sovereign for the time being, and all acts and things *bona fide* done and performed by such incumbents in their respective offices, and in the due and faithful performance of their duties and functions, between the time of the demise and the proclamation so to be issued, the oath of allegiance being always duly taken, shall be deemed to be legally done and valid accordingly. R.S.O. 1937, c. 16, s. 2.

Continuance
in duty
and validity
of acts.

3. Nothing in section 2 shall prejudice or in anywise affect the rights or prerogatives of the Crown with respect to any office or appointment derived or held by authority from the Crown, nor prejudice or affect the rights or prerogatives thereof in any other respect whatsoever. R.S.O. 1937, c. 16, s. 3.

Saving as to
rights of the
Crown.

Oaths of
allegiance
and office.

4. It shall not be necessary for any person appointed to any office in Ontario, or for any person admitted, called or received as a barrister, notary public or solicitor, to make any declaration or subscription, or to take or subscribe any other oath than the following oath:

I,, do swear that I will be faithful and bear true allegiance to His Majesty King George the Sixth (*or the reigning sovereign for the time being*), his heirs and successors according to law. So help me God.

and also such oath for the faithful performance of the duties of his office or for the due exercise of his profession or calling as may be required by any law in that behalf. R.S.O. 1937, c. 16, s. 4; 1939, c. 47, s. 28; 1947, c. 102, s. 8.

Form of
oath of
allegiance
to be used.

5. Except where otherwise specially provided, the form hereinbefore set forth, and no other, shall be that of the oath of allegiance to be administered to and taken by every person in Ontario, who, either of his own accord or in compliance with any lawful requirement made on him or in obedience to the directions of any Act of the Legislature, desires to take an oath of allegiance. R.S.O. 1937, c. 16, s. 5.

Who may
administer
oath of
allegiance.

6. All magistrates and all other officers lawfully authorized, either by virtue of their office or by special commission from the Crown for that purpose, may administer the oath of allegiance in any part of Ontario. R.S.O. 1937, c. 16, s. 6.

Security to
be given
by certain
public
officers.

7.—(1) Security by or on behalf of every person appointed to any office or employment, or commission in the public service of Ontario, or to any office or employment of public trust, or wherein he is concerned in the collection, receipt, disbursement or expenditure of any public money under the Government of Ontario, and who by reason thereof is required to give security, shall be furnished within one month after notice of his appointment, if he is then in Ontario, or within three months, if he is then absent from Ontario (unless he sooner arrives in Ontario, and then within one month after such arrival), in such sum and in such manner as may be approved of by the Lieutenant-Governor in Council or by the principal officer or person in the office or department to which he is appointed, for the due performance of the trust reposed in him and for his duly accounting for all public moneys entrusted to him or placed under his control.

Liability of
sureties of
public officer
for acts of
deputy.

(2) Where a deputy is appointed by any person holding an office, any security required by law and given on behalf of such person, shall extend to and include the acts and omissions of the deputy, whether appointed before or subsequent to the giving of the security.

(3) The liability of the sureties, and of the officer appointing the deputy, shall be the same as regards the performance of the duties of the office by the deputy, as in regard to the performance thereof by the person holding the office, and such liability shall extend to and cover all acts and omissions of the deputy while he continues to perform the duties of the office, and whether before or after the death or resignation of the person appointing him, subject to the same rights of withdrawal by the sureties from liability, as may exist in regard to the security given by public officers.

Security to cover acts and omissions of deputy.

(4) The Lieutenant-Governor in Council may, notwithstanding the provisions of this section, require new security to be furnished by any deputy on the death or resignation of the person holding the office wherein he is deputy, and such security shall be for the like amount, and subject to the same conditions as that required by law for the due performance of the duties of the officer whom the deputy represents. R.S.O. 1937, c. 16, s. 7.

Deputy may be required to furnish security.

8. The Lieutenant-Governor in Council may prescribe the form of the security required to be furnished under any statute by a public officer or by any class of public officers, and may authorize the Treasurer of Ontario to enter into agreements in His Majesty's name with any corporation authorized to carry on the business of fidelity insurance in Ontario for the furnishing of security for any public officer, or for public officers generally, or for any class or classes of public officers. R.S.O. 1937, c. 16, s. 8.

Form of security.

9. Nothing in the preceding sections shall apply to any treasurer or other officer of a municipal or school corporation having the custody of moneys of such corporation. R.S.O. 1937, c. 16, s. 9.

Saving as to municipal or school treasurers.

10. The Treasurer of Ontario shall cause to be prepared and laid before the Assembly, within 15 days after the opening of every session thereof, a detailed statement of all securities furnished on behalf of public officers, and of any changes that have been made in reference to such securities since the last statement laid before the Assembly. R.S.O. 1937, c. 16, s. 10.

Laying statement of securities before Assembly.

11. The security furnished on behalf of any public officer in pursuance of this or any other Act requiring security shall enure as well for the benefit of His Majesty as for that of the persons for whose benefit it is provided by the Act requiring the security or otherwise that it shall enure. R.S.O. 1937, c. 16, s. 11.

Effect of securities by public officers.

Limitation
of actions
against
sureties of
public
officers.

12. Where any person, company or corporation is surety for a public officer or for any person appointed to any office, employment or commission in the public service of Ontario, or to any office or employment of public trust, whether the suretyship is for the benefit of His Majesty or enures for the benefit of any person injured by the default or misconduct of the officer or other person, and an action is brought against the surety, no damages shall be recovered except as to matters and causes of action which have arisen within 10 years next before the commencement of the action. R.S.O. 1937, c. 16, s. 12.

County court
and division
court clerks
and
registrars
of surrogate
court.

13. Every clerk of a county court, every registrar of a surrogate court and every clerk of a division court for a division embracing a city or part of a city, shall keep a separate book, in which he shall enter from day to day all fees, charges and emoluments received by him by virtue of his office, showing the sums received by him for fees, charges and emoluments of all kinds whatsoever, and shall on or before the 15th day of January in each year make up a statement under oath of such fees, charges and emoluments to and including the 31st day of December of the previous year and return the same to the Provincial Secretary. R.S.O. 1937, c. 16, s. 13.

Particulars
in returns
by public
officers.

14. Every public officer who is by this or any other Act required to make a return of the fees and emoluments of his office to any department of the Government, or to any officer, shall include in his return,

- (a) the aggregate amount of all fees and emoluments earned by him during the preceding year by virtue of his office;
- (b) the aggregate amount of all fees and emoluments actually received by him during the preceding year by virtue of his office;
- (c) the actual amount of the disbursements during the same period in connection with his office, and such other particulars as the Lieutenant-Governor in Council may prescribe. R.S.O. 1937, c. 16, s. 14.

Procedure
against per-
son, who has
ceased to be
a public
officer, for
retaining
moneys,
books, etc.

15. Where a person who has been, but has ceased to be, a public officer, retains possession of any accounts, moneys, books, papers, matters or things which have been in his possession as such officer, a judge of the Supreme Court or the judge of any county or district court, upon application of the successor in the office of such person or of the Attorney-General or of some person by his authority, and on notice

to the person affected, may order that such accounts, moneys, books, papers, matters and things be forthwith delivered to such successor in office or to such person as the judge may direct, and in default that such person be committed to the common jail of the county or district in which he resides for such period as the judge may direct, or until he complies with the directions of the order, and may authorize the sheriff of any county or district in which the same may be found to forthwith seize and take such accounts, moneys, books, papers, matters and things, and deliver them to the persons to whom they have been directed to be delivered. R.S.O. 1937, c. 16, s. 15.

16. Where by any general or special Act of the Legislature any person or the occupant for the time being of any office is empowered to do or perform any act, matter or thing and such person or the occupant for the time being of such office is disqualified by interest from acting, and no other person is by law empowered to do or perform such act, matter or thing, then he or any interested person may apply, upon summary motion, to a judge of the Supreme Court, who shall have power to appoint some disinterested person to do or perform the act, matter or thing in question. R.S.O. 1937, c. 16, s. 16.

Procedure when public officer interested in question before him.

CHAPTER 312

The Public Officers' Fees Act

1. In this Act,

Interpretation.

(a) "net income" means the excess of all fees and emoluments earned during the calendar year by an officer, by virtue of all his offices, after deducting such disbursements incident to the business of the office as may be allowed by the proper officer including the salaries of clerks and other employees;

(b) "proper officer" means the inspector appointed under any statute who has supervision over the office in question, or any person designated by the Lieutenant-Governor in Council. R.S.O. 1937, c. 18, ss. 1, 4 (1).

2.—(1) Every officer to whom this Act applies who is paid by fees or other emoluments and not by salary only, shall pay to the Treasurer of Ontario a percentage of the fees and emoluments earned by him during the calendar year as provided by this Act and by any regulation made thereunder.

Percentage of fees payable to Province.

(2) When more than one person has held any office in any calendar year, each shall pay a proportionate part based upon his net income and the time he has held office. R.S.O. 1937, c. 18, s. 2.

Apportionment where more than one officer in any year.

3.—(1) On or before the 15th day of January in each year every officer to whom this Act applies shall transmit to the proper officer a return under oath of all fees and emoluments, including his salary, if any, earned in respect of his office, whether actually received or not, and also of the disbursements of his office during the calendar year ending on the 31st day of December previous to such return, and shall with such return transmit by marked cheque payable to the Treasurer of Ontario the percentage payable to the Government under this Act.

Returns to be made on or before 15th January.

(2) When any person ceases to hold office during any calendar year, he shall make a return and remit a cheque for the due proportion of the percentage within 30 days from the time he ceases to hold office.

When ceasing to hold office.

(3) Upon the death of any person holding office, his representatives shall make a return within 30 days from the date of death and pay the due proportion of the percentage.

Where officer dies.

Attorney-General may require special return.

(4) When so required by the Attorney-General, any officer shall make at any time a special return and shall forthwith pay over the due proportion of the percentage as of the date of such return. R.S.O. 1937, c. 18, s. 3.

Allowances for salary to be approved.

4.—(1) No allowance shall be made for any salary to any clerk or other employee until the proper officer has certified to the necessity for his employment and the reasonableness of the salary paid.

Application of section.

(2) This section shall apply to every person holding the office of Crown attorney, clerk of the peace, sheriff, local registrar of the Supreme Court, deputy registrar, clerk of the county or district court, registrar of the surrogate court, and to every other officer designated by the Lieutenant-Governor in Council. R.S.O. 1937, c. 18, s. 4 (2, 3).

Crown attorney.

5. Every Crown attorney, whether he is or is not the clerk of the peace, and every clerk of the peace, shall be entitled to retain to his own use in each year his net income up to \$6,000, but shall pay to the Treasurer of Ontario 50 per cent of the excess over that sum. R.S.O. 1937, c. 18, s. 5; 1950, c. 64, s. 1.

Sheriff.

6. Every sheriff shall be entitled to retain to his own use in each year his net income up to \$6,500, but shall pay to the Treasurer of Ontario 90 per cent of the excess over that sum, provided that this section shall not apply to any sheriff appointed after the 28th day of March, 1929. R.S.O. 1937, c. 18, s. 6.

Supreme Court, county court and surrogate court fees.

7.—(1) Every local registrar of the Supreme Court, deputy registrar, county or district court clerk and registrar of the surrogate court, whether holding one or more of the above offices, and every sheriff shall be entitled to retain to his own use in each year his net income up to \$4,000. R.S.O. 1937, c. 18, s. 7 (1); 1949, c. 83, s. 1 (1).

Percentages payable on net income.

(2) On the net income of each year over \$4,000, he shall pay to the Treasurer of Ontario,

(a) on the excess over \$4,000 up to \$6,000, 50 per cent;

(b) on the excess over \$6,000, 90 per cent. 1949, c. 83, s. 1 (2).

Application of subss. 1 and 2.

(3) Subsections 1 and 2 shall not apply in the case of a sheriff who was in office on the 28th day of March, 1929. R.S.O. 1937, c. 18, s. 7 (3).

Division court clerks and bailiffs.

8.—(1) Every division court clerk and every division court bailiff shall be entitled to retain to his own use in each

year all the gross fees and emoluments earned by him in that year up to \$6,000.

(2) Of all the gross fees and emoluments earned by any Idem. division court clerk or division court bailiff in each year he shall pay to the Treasurer of Ontario,

(a) on the excess over \$6,000 up to \$10,000, 10 per cent thereof;

(b) on the excess over \$10,000, 20 per cent thereof.
1950, c. 64, s. 2.

9. The money paid to the Treasurer of Ontario shall form part of the Consolidated Revenue Fund. R.S.O. 1937, c. 18, s. 9. Application of moneys received by the Province.

10. The Lieutenant-Governor in Council may direct the payment out of the Consolidated Revenue Fund to the sheriff and other officers of any provisional judicial district of such several sums of money by way of salary or otherwise, and in addition to the fees which are received by such sheriff and other officers as may be thought reasonable for the services performed by such officers. R.S.O. 1937, c. 18, s. 10. Salaries of sheriffs in district.

11. The Lieutenant-Governor in Council may make rules and regulations for the management of the offices of all public officers, and may confer upon any inspector such powers as may be deemed necessary for the carrying out of the provisions of this Act and of the Acts under which such officers are appointed or under which they are required to discharge their duties. R.S.O. 1937, c. 18, s. 11. Rules and regulations for management of offices.

12. Where it appears by a return to the Lieutenant-Governor or to any department of the Government that in any year a sheriff, local registrar of the Supreme Court, deputy registrar, county or district court clerk, and registrar of the surrogate court, whether holding one or more of the above offices, has derived from the fees, emoluments and salary, if any, of his office, after deducting necessary disbursements, an income which does not exceed \$1,800, or the amount at which he is commuted as the case may be, there may, on the report of the Inspector of Legal Offices, be paid to such officer out of the Consolidated Revenue Fund an amount sufficient to make up the income for the year to \$1,800, or to the amount at which he is commuted as the case may be, if the Lieutenant-Governor in Council so directs. R.S.O. 1937, c. 18, s. 12; 1939, c. 47, s. 22. Minimum salary for certain officers.

13.—(1) The Lieutenant-Governor in Council may from time to time amend or repeal the amount of percentages Alteration of percentages and provisions re income.

payable under this Act by any officer to whom this Act applies, and the amount of net income or gross income that any such officer under this Act is entitled to retain to his own use.

Alterations
of fees under
Ontario
Statute.

(2) The Lieutenant-Governor in Council may from time to time amend or repeal any fees payable under any Act of the Legislature to any sheriff, Crown attorney, clerk of the peace or any officer within this Act. R.S.O. 1937, c. 18, s. 13; 1946, c. 81, s. 2.

Compulsory
retirement
of officers.

14. An officer, other than a sheriff, to whom this Act applies shall cease to hold office upon attaining the age of 80 years and the appointment of his successor. R.S.O. 1937, c. 18, s. 14.

CHAPTER 313

The Public and Other Works Wages Act

1. If any contractor with His Majesty, or any subcontractor in the construction of any public work let under contract by His Majesty, makes default in the payment of the wages of any foreman, workman or labourer employed on such work, or in the payment of any sum due by him for the labour of any such foreman, workman or labourer, or of any team employed on such work, and if a claim therefor is filed in the office of the Minister entering into such contract on behalf of His Majesty, not later than two months after the same becomes due, and satisfactory proof thereof is furnished, His Majesty may pay the claim to the extent of the amount of all moneys or securities in the hands of His Majesty for securing the performance of the contract at the time of the filing of the claim. R.S.O. 1937, c. 198, s. 1.

Payment of wages of employees of contractors with the Crown or their subcontractors.

2. The Minister may, in writing, require any such contractor or subcontractor to file in the office of the Minister, not later than the fifteenth day of each month, a list showing the names, rates of wages, amounts paid and amounts due and unpaid for wages or labour done by any foreman, workman, labourer or team employed by the contractor or subcontractor during the previous month, and such list shall be attested upon the oath of the contractor or subcontractor or his authorized agent. R.S.O. 1937, c. 198, s. 2.

List of employees, etc., to be furnished when required.

3.—(1) Every contractor or subcontractor who makes default in forwarding such list shall incur a penalty of not less than \$10 or more than \$100 for every day during which default continues.

Penalty for failure to furnish list.

(2) The amount of such penalty, within the above limits, shall be determined by the Minister under whom the work is being executed, and may be deducted out of the money in the hands of the Crown deposited by or owing to such contractor and shall be vested in His Majesty. R.S.O. 1937, c. 198, s. 3.

How penalty enforceable.

4. Where default is made by a subcontractor in furnishing such list the penalty for such default, hereinbefore provided, may also be recovered, with costs, at the suit of the Crown in any court of competent jurisdiction. R.S.O. 1937, c. 198, s. 4.

Case of default by subcontractor.

Retaining
portion of
legislative
grant and
paying
wages, etc.,
thereout.

5.—(1) Where any subsidy, advance, loan or bonus of money is authorized by the Legislature to be granted to any company or person towards the construction of any railway or other work it shall, in the absence of special provision by the Legislature to the contrary, be a condition of the grant that so much of the money may be retained as the Lieutenant-Governor in Council may think proper to secure the payment of claims for wages of persons employed on such railway or work whether by such company or by any contractor or subcontractor, or for sums due or to become due for labour of persons or teams so employed.

When to
be paid.

(2) If any such claim remains unpaid for 30 days after notice thereof has been served upon the Minister charged with the duty of seeing that the conditions upon which such aid is granted are duly carried out, the Lieutenant-Governor in Council may, on being satisfied that such claim is due and unpaid, direct that it be paid together with all proper costs and charges in connection therewith out of any moneys so retained. R.S.O. 1937, c. 198, s. 5.

Liability of
companies
for wages
due by con-
tractors, etc.

6.—(1) Every company incorporated under any Act of the Legislature shall be liable for the payment of the wages of the foremen, workmen, labourers or teams employed in the construction of any work in Ontario done by or for the company, whether directly under the company or through the intervention of any contractor or subcontractor.

Saving of
other rights.

(2) Nothing herein shall prejudice or affect the right of any person against any contractor or subcontractor with whom he has contracted under any other Act or law in force in Ontario. R.S.O. 1937, c. 198, s. 6.

Notice of
unpaid
wages.

7.—(1) Where any such foreman, workman or labourer is not paid his wages for himself or his team by any contractor or subcontractor by whom he has been employed, a notice stating the name of the claimant and the amount of wages claimed, the rate of such wages, the nature and amount of work done, the time when, the place where, and the name of the contractor or subcontractor, superintendent or foreman under whom such work was done, may be served upon the company not later than two months after such wages are earned.

Limitation
of time for
action.

(2) The notice shall be followed by the commencement of a suit in a court of competent jurisdiction for the collection of such wages within 30 days after the service of the notice, otherwise the liability mentioned in section 6 shall cease.

(3) The notice mentioned in subsection 1, and any summons, notice, order or other process required to be served upon the company for the prosecution of such claim, may be served upon the president, vice-president, secretary, managing director, superintendent, or engineer, or any recognized officer representing the company, or by leaving it with any adult person at the office or residence of any of them. R.S.O. 1937, c. 198, s. 7.

Service of
notice or
process.

CHAPTER 314

The Public Parks Act

1.—(1) A park, or a system of parks, avenues, boulevards and drives, or any of them, may be established in any municipality, and the same, as well as existing parks and avenues, may be controlled and managed in the manner hereinafter provided.

Establishment of parks.

(2) Subject to subsection 5, if a petition, praying for the adoption of this Act, is presented to the council of any county or city signed by not less than 500 electors, or to the council of any town or township signed by not less than 200 electors, or to the council of any village signed by not less than 75 electors, the council may pass a by-law giving effect to the petition, with the assent of the electors qualified to vote at municipal elections, given before the final passing of the by-law as provided by *The Municipal Act*.

Petition and by-law therefor.

Rev. Stat., c. 243.

(3) If the majority of the votes is in favour of the by-law, it shall be finally passed by the council at its next regular meeting held after the taking of the vote, or as soon thereafter as may be.

Idem.

(4) If the vote is adverse, no by-law for the same purpose shall afterwards be submitted to the electors within the same year.

Restriction.

(5) It shall not be necessary for a county council to submit the by-law for the assent of the electors if the by-law, on the final reading thereof, is approved by three-fifths of the members of the council then present. R.S.O. 1937, c. 285, s. 1.

When submission to electors unnecessary.

2. The parks, avenues, boulevards and drives, and approaches thereto, and streets connecting the same, shall be open to the public free of all charge, subject to the by-laws, rules and regulations of the board of park management, and subject also to sections 12 and 13. R.S.O. 1937, c. 285, s. 2.

Parks to be open to public.

3.—(1) Where this Act is adopted, the general management, regulation and control of all existing parks and avenues, and of all properties both real and personal, applicable to the maintenance of parks belonging to the municipality, and of all parks, avenues, boulevards and drives which may thereafter be acquired and established under this Act, shall be vested in and

Board of park management.

exercised by a board to be called "The Board of Park Management".

Authority
of board,
to what
streets
applicable.

(2) The authority of the board shall not extend to any streets open at the time of the adoption of the Act, with the exception of streets expressly specified in the by-law adopting the Act, or which at any time or from time to time afterwards, in pursuance of an agreement between the council and the board, the council by by-law declares to be subject to this Act.

Consent of
municipal
council and
agricultural
society.

(3) Nothing in this Act shall authorize the board to assume possession or control of any exhibition park in or belonging to the municipal corporation without the consent of both the council and of any district agricultural society or exhibition association having an interest therein. R.S.O. 1937, c. 285, s. 3.

Management
of special
under-
takings.
Rev. Stat.,
c. 243.

(4) The council may by by-law appoint the board to manage, regulate and control any undertaking established under paragraph 53 of section 386 of *The Municipal Act* and thereupon the management, regulation and control thereof shall be vested in and exercised by the board, and the board shall have power to prescribe fees for admittance to or for the use of any such undertaking. 1947, c. 87, s. 1.

Constitution
of board.

4. The board shall be a corporation, and shall be composed of the head of the municipality and of six other persons, who shall be residents or ratepayers of the municipality, but not members of the council, and shall be appointed by the council. R.S.O. 1937, c. 285, s. 4.

Tenure of
office.

5.—(1) The appointed members of the board shall hold office for three years, except in the case of the members of the first board, two of whom shall hold office until the 1st day of February in the year following the first appointments, two for one year, and two for two years, from that day; such members retiring in rotation, two each year, the order of such retirements to be determined by lot among themselves at their first meeting; but every member of the board shall continue in office until his successor is appointed and shall be eligible for reappointment.

Vacancies.

(2) In case of a vacancy by the death or resignation of a member, or from any cause other than the expiration of the time for which he was appointed, the member appointed in his place shall hold office for the remainder of his term and until his successor is appointed.

Term of
office of
appointed
members.

(3) Save as aforesaid, each of the appointed members shall hold office for three years from the 1st day of February in the year in which he is appointed.

(4) The first appointment of members of the board shall be made at the first regular meeting of the council held after the final passing of the by-law. First appointments.

(5) Thereafter the appointments shall be made annually at the first meeting of the council held after its organization; and any vacancy arising from any cause other than the expiration of the time for which the member was appointed shall be filled at the first meeting of the council held after the occurrence of the vacancy. Subsequent appointments.

(6) The first members of the board, within 10 days after their appointment and on such day and hour as the head of the municipality shall appoint, notice of the appointment in writing, signed by him, having been duly sent to the address of each member at least one week before the day and hour named therein, shall meet at the office of the head for the purpose of organization, shall elect one of their number chairman and shall appoint a secretary who may be one of their own number. Organization of board.

(7) If for any reason appointments are not made at the prescribed time, they shall be made as soon as may be thereafter. When appointments not made at required time.

(8) The chairman and secretary shall hold office at the pleasure of the board, or for such period as the board may prescribe. Tenure of office of chairman and secretary.

(9) When the chairman or secretary is absent or unable to act, the board may appoint a chairman or secretary *pro tempore*. Chairman and secretary *pro tem*.

(10) The board shall meet at least once in every month. Monthly meeting.

(11) The chairman or any two members may summon a special meeting of the board by giving at least two days notice in writing to each member, specifying the purpose for which the meeting is called. Calling special meeting.

(12) The office of a member who is absent from the meetings of the board for three consecutive months, without leave of absence from the board or without reasons satisfactory to the board, shall be declared vacant by the board, and notice thereof shall be given to the council at its next meeting. Vacating office by absence.

(13) No business shall be transacted at any special or general meeting unless at least four members are present. Quorum.

(14) All orders and proceedings of the board shall be entered in books to be kept for that purpose and shall be signed by the chairman for the time being, and, when so entered and purporting to be so signed, shall be deemed to be original. Records.

orders and proceedings, and the books may be produced and read in any judicial proceeding as evidence of the orders and proceedings. R.S.O. 1937, c. 285, s. 5.

Payment of
expenses of
members.

6.—(1) The members of the board shall serve without compensation, but each member shall be entitled to receive his actual disbursements for expenses in visiting or superintending the park or park property where the visit or service is made or rendered by direction of the board.

Prohibition
against
interest in
contracts.

(2) No member of the board, or of the council, shall have any contract with the board, or be pecuniarily interested, directly or indirectly, in any contract or work relating to the park or park property. R.S.O. 1937, c. 285, s. 6.

Assistance.

7. The board may employ all necessary clerks, agents and servants, and may prescribe their duties and compensation. R.S.O. 1937, c. 285, s. 7.

Custody and
inspection of
records.

8. The board shall keep in its office all books, maps, plans, papers and documents used in and pertaining to the business of the board, and the same shall be open to the examination of the members of the council, and of any other person appointed for that purpose by the council. R.S.O. 1937, c. 285, s. 8.

Accounts.

9. The board shall keep accounts of its receipts, payments, credits and liabilities, and the accounts shall be audited by the auditor of the municipal corporation in like manner as other accounts of the municipal corporation, and shall thereafter be laid before the council by the board. R.S.O. 1937, c. 285, s. 9.

Power to
make by-
laws, etc.

10.—(1) The board may pass by-laws for the use, regulation, protection and government of the parks, avenues, boulevards and drives, the approaches thereto, and streets connecting the same, not inconsistent with the provisions of this Act or of any law of Ontario.

Consent of
board neces-
sary for
exercise of
certain
powers.
Rev. Stat.,
c. 331.

(2) The powers conferred upon municipal councils by *The Railways Act*, so far as relates to any streets or approaches under the control of the board, shall not be exercised without the consent of the board, and no street railway or other railway shall enter upon or pass through the park.

Licensing
of cabs and
vehicles and
sale of re-
freshments.

(3) The board shall have power to license cabs and other vehicles for use in a park, and to let from year to year, or for any time not exceeding 10 years, the right to sell refreshments, other than spirituous, fermented or intoxicating liquors, within the park under such regulations as the board shall prescribe.

(4) The board shall have power in and by their by-laws to attach penalties for the infraction thereof, and such by-laws may be enforced and the penalties thereunder recovered in like manner as by-laws of municipal councils and the penalties thereunder may be enforced and recovered.

(5) The by-laws shall be sufficiently authenticated by being signed by the chairman of the board, and a copy of any by-law, written or printed, and certified to be a true copy by any member of the board, shall be receivable as evidence without proof of any such signature. R.S.O. 1937, c. 285, s. 10.

11. Real and personal property may be devised, bequeathed, granted, conveyed or given to the municipal corporation for the establishment or formation of a park, or for the purpose of the improvement or ornamentation of any park of the municipality, and of the avenues, boulevards and drives and approaches thereto, and of the streets connecting therewith, and for the establishment and maintenance on park property of museums, zoological or other gardens, natural history collections, observatories, monuments or works of art, upon such trusts and conditions as may be prescribed by the donor. R.S.O. 1937, c. 285, s. 11.

12.—(1) The board may acquire by purchase, lease or otherwise the land, rights and privileges required for park purposes under this Act.

(2) Land so acquired, together with that the general management, regulation and control of which is vested in the board under section 3, exclusive of land acquired by devise or gift, shall not together exceed two thousand acres in the case of cities having a population of not less than 100,000, one thousand acres in the case of other cities or of counties, and five hundred acres in the case of towns, villages or townships.

(3) The conveyance of all land, rights and privileges so acquired by purchase or lease shall be taken to the municipal corporation.

(4) The board shall have power to let any land not immediately required for park purposes.

(5) If it has more land than is required for park purposes, the board may sell or otherwise dispose of the land not required in such manner and upon such terms as may be deemed most advantageous.

(6) Where a park has been purchased or has been acquired by the board or by the corporation of the municipality, otherwise than by gift or devise, or by dedication to the public by

the owner of the land, freely, or at a nominal price or rental, the board may set apart a sufficient part thereof for athletic purposes or for the purposes of sport, exhibitions or other lawful amusements or entertainments, and may lease the same for such purposes for such times and on such terms as the board may see fit; but the powers conferred by this subsection shall not be exercisable with respect to any park unless the board has applied for and received the approval of the Ontario Municipal Board. R.S.O. 1937, c. 285, s. 12.

Municipality
may
empower
board to
manage any
corporation
land.

13.—(1) The council of the municipal corporation may by by-law provide that any land acquired by the corporation and not immediately required for any other purpose shall be under the management and control of the board, and the board may set apart the land or any part thereof for athletic purposes or for the purposes of sport exhibitions or other lawful amusements or entertainments, and may lease it for such purposes for such times and on such terms as the board may see fit.

Council may
repeal
by-law.

(2) The council may repeal any by-law passed under subsection 1, and the municipal corporation may thereafter sell or otherwise dispose of the land or use it for any lawful purpose of the corporation. R.S.O. 1937, c. 285, s. 13.

Power to
enter on
lands and
expropriate
streams, etc.

14. The board, its engineers, surveyors, servants and workmen may enter upon the land of any person in the municipality, or, in the case of a city within 10 miles, and in the case of a town within five miles thereof, and may survey, set out and ascertain such parts thereof as are required for parks, avenues, boulevards and drives and approaches thereto, or for any other purposes of the board, including the supply of water for artificial lakes, fountains and other park purposes, and with the consent of all parties interested capable of consenting, may divert and expropriate any river, ponds of water, springs or streams of water therein which the engineer, surveyor or other person authorized by the board may deem suitable for such purposes, and the board may contract with the owner or occupier of the land and with those having a right or interest in the water, for the purchase or renting thereof or of any part thereof, or of any privilege which may be required for the purposes of the board; but the board shall not interfere with the waterworks or water supply of any municipal corporation or of any waterworks company. R.S.O. 1937, c. 285, s. 14.

Arbitration.

15. In case of any disagreement between the board and the owner or occupier of, or any other person interested in such land, or any person having an interest in such water, or

in the natural flow thereof, or in any such privilege, respecting the amount of purchase money or yearly rental thereof, or as to the damages which the expropriation thereof by the board will cause, or otherwise, the matter in question shall be determined by arbitration under *The Municipal Act*, as herein-
after provided. R.S.O. 1937, c. 285, s. 15. Rev. Stat., c. 243.

16. Sections 344, 345, 347 to 349 and 351 to 360 of *The Municipal Act* shall be read as part of this Act, and shall apply to the board as if the board were named therein instead of the corporation or municipal council. R.S.O. 1937, c. 285, s. 16. Application of Rev. Stat., c. 243.

17.—(1) The board shall, in the month of February in every year, prepare an estimate of the sums required during the ensuing financial year for, Board to make yearly estimates.

- (a) the interest on money borrowed;
- (b) payment of interest and principal on debentures;
- (c) the expense of managing, regulating and controlling any undertaking established under paragraph 53 of section 386 of *The Municipal Act*;
- (d) the expense of maintaining, improving and managing the parks, boulevards, avenues and streets under its control; and
- (e) the interest and instalments of purchase money for the purchase of small squares or parks. R.S.O. 1937, c. 285, s. 17 (1); 1947, c. 87, s. 2 (1). Rev. Stat., c. 243.

(2) The board shall report its estimate to the council not later than the 15th day of February in each year. When estimate to be reported.

(3) The council shall, in addition to all other rates and assessments for municipal purposes, levy and assess in every year a special annual rate sufficient to furnish the amount required for the year, but not exceeding one mill in the dollar upon the assessed value of all rateable real and personal property, and the rate shall be called "The Park Fund Rate", and shall be deemed to be included in the limit of the rate authorized by section 308 of *The Municipal Act*. R.S.O. 1937, c. 285, s. 17 (2, 3). Special rate for park purposes.

(4) When the board manages, regulates and controls any undertaking established under paragraph 53 of section 386 of *The Municipal Act*, the maximum rate mentioned in subsection 3 shall be two mills. 1947, c. 87, s. 2 (2). When rate may be increased.

(5) Subject as hereinafter provided, the council may also, on the requisition of the board, raise by a special issue of debentures, to be called "Park Fund Debentures", the sums Power to issue debentures.

required for the purpose of purchasing the land and privileges which are reported by the board to be necessary for park purposes, and for making permanent improvements upon any land theretofore acquired by the board for park purposes. R.S.O. 1937, c. 285, s. 17 (4).

Issuing of debentures for half cost of park when remainder contributed.

(6) If at least one-half of the cost of establishing a park is contributed by private subscription or otherwise, the council shall, at the request of the board, issue debentures for the remaining one-half, but only when the annual sum required to meet the annual payments of interest and principal can be provided for without exceeding the limit of one mill in the dollar provided for in subsection 3. R.S.O. 1937, c. 285, s. 17 (5); 1947, c. 87, s. 2 (3).

By-law, when not necessary to submit to electors.

(7) It shall not be necessary to submit to the electors a by-law authorizing the issue of debentures in case the annual sum required to meet the annual payments of interest and principal does not, with a reasonable allowance for annual expenses of managing, improving and maintaining the parks and other works under the control of the board, exceed the limit of one mill in the dollar, notwithstanding any provisions to the contrary in *The Municipal Act* or any special Act relating to the municipality. R.S.O. 1937, c. 285, s. 17 (6); 1947, c. 87, s. 2 (4).

Rev. Stat., c. 243.

Currency of debentures.

(8) The debentures shall be payable within 40 years at furthest from the date of their issue.

To constitute lien.

(9) Debentures issued under the authority of this Act shall form a lien and charge upon all land which is by this Act declared to be subject to the control and management of the board.

Sale free from lien; application of proceeds.

(10) In case of a sale, the board may sell free from the lien, but the purchase money shall be applied to the payment of park debentures or to the purchase of other land for park purposes. R.S.O. 1937, c. 285, s. 17 (7-9).

Annual rate for retirement of debentures.

(11) During the currency of the debentures, the council shall withhold and retain out of and as a first charge on the annual rate the amount required to meet the annual payments of interest and principal on the debentures. R.S.O. 1937, c. 285, s. 17 (10); 1947, c. 87, s. 2 (5).

Application of provisions of Rev. Stat., c. 243.

(12) Except as otherwise expressly provided in this Act, the provisions of *The Municipal Act* as to money by-laws and the debentures to be issued thereunder shall apply to by-laws passed by a municipal council under the authority of this Act and the debentures issued thereunder. R.S.O. 1937, c. 285, s. 17 (11).

(13) All money realized or payable under this Act shall be received by the treasurer of the municipality in the same manner as other money, and shall be deposited by him to the credit of the park fund, and shall be paid out by him on the orders of the board, save as to the amount required to be retained under subsection 11. R.S.O. 1937, c. 285, s. 17 (12); 1947, c. 87, s. 2 (6).

18.—(1) No person shall,

- (a) wilfully or maliciously hinder, or interrupt, or cause or procure to be hindered or interrupted, the board or its engineers, surveyors, managers, contractors, servants, agents, workmen, or any of them in the exercise of any of the powers and authorities authorized and contained in this Act; Prohibitions and penalties, hindering, etc., board or its officers;
- (b) wilfully or maliciously let off or discharge any water so that it runs waste or useless from or out of any reservoir, pond, lake or other receptacle for water connected with any such park; wasting water;
- (c) cause any dog or other animal to swim in, or throw or deposit any injurious, noisome or offensive matter into the water in any reservoir, lake, pond, or other receptacle for water connected with any such park, or upon the ice in case the water is frozen, or in any way foul the water, or commit any unlawful damage or injury to the works, pipes or water, or encourage the same to be done; fouling reservoir;
- (d) lay or cause to be laid any pipe or main to communicate with any pipe or main belonging to the water-works connected with any such park or parks, or in any way obtain or use any water thereof without the consent of the board; diverting water;
- (e) wash or cleanse any cloth, wool, leather, skin or animals, cause any dog or other animal to swim therein, or place any noisome or offensive thing within the distance of three miles in the case of a city, and one mile in the case of any other municipality, in any river, pond, creek, spring, source or fountain from which the water for the supply of any such park or parks is taken, or convey, cast, throw, or put any filth, dead carcass or other injurious, noisome or offensive things therein, or within the distance above-mentioned; or cause, permit or suffer the water of any sink, sewer or drain to run or be conveyed into the same, or cause any other thing to be done whereby the water therein may be in any way tainted or fouled; fouling water supply;

destroying
ornamental
trees, etc.;

- (f) wilfully or maliciously injure, hurt, deface, tear or destroy any ornamental or shade tree or shrub or plant, or any statue, fountain, vase or fixture of ornament or utility in any street, park, avenue, drive or other public place under the control of the board, or wilfully, negligently or carelessly suffer or permit any horse or other animal driven by or for him, or any animal belonging to him or in his custody, possession or control, and lawfully on the street or other public place, to break down, destroy or injure any tree, shrub or plant therein;

injuring
animals, etc.

- (g) wilfully or maliciously injure, hurt or otherwise molest or disturb any animal, bird or fish kept in any such park or in the lakes or ponds connected therewith.

Penalty.

(2) For every contravention of subsection 1, the offender shall be guilty of an offence and liable to a penalty of not less than \$1 and not more than \$20; or the offender may be imprisoned with or without hard labour, in the first instance, for a term of not more than thirty days; and the person so offending shall be liable to an action at the suit of the board to make good any damage done by him. R.S.O. 1937, c. 285, s. 18.

CHAPTER 315

The Public Revenue Act

1. In this Act, "revenue" means all provincial revenue and all public money arising from any source whatsoever. R.S.O. 1937, c. 23, s. 1. Interpretation.

2. Every person whose duty it is to receive moneys forming part of the revenue or who is entrusted with the custody or expenditure of such moneys although not regularly employed in collecting or managing the same, shall, in respect thereto, be subject to this Act. R.S.O. 1937, c. 23, s. 2. Revenue officers.

3. The Lieutenant-Governor in Council may determine what persons it is necessary to employ in collecting or managing the revenue, and in carrying into effect the laws relating thereto, and for preventing any contravention of such laws, and may assign their names of office, and grant out of any money appropriated for that purpose by this Legislature, to such persons such salaries or remuneration as to the Lieutenant-Governor in Council may seem proper. R.S.O. 1937, c. 23, s. 3. Employment and salaries of officers.

4.—(1) Except where otherwise provided by law, the salary or remuneration allowed to any such person shall be in lieu of all fees, allowances or emoluments, except actual and authorized disbursements. Salaries to be in lieu of emoluments.

(2) No such person who receives a salary at or exceeding the rate of \$1,000 per annum shall exercise any other calling, profession, trade or employment whatsoever with a view of deriving profit therefrom, directly or indirectly, or shall hold any other office of profit whatsoever, except an office relating to the collection or management of the revenue, held by such person with the permission of the Lieutenant-Governor in Council. R.S.O. 1937, c. 23, s. 4. Officer receiving \$1,000 per annum not to follow any other occupation.

5. Every person appointed to any office or employment relating to the collection or management of the revenue, on his admission to such office or employment, shall take, before such officer as the Lieutenant-Governor may appoint, the following oath: Officers to take an oath of office.

I, *A.B.*, do swear to be true and faithful in the execution, to the best of my knowledge and power, of the trust committed to my charge by my appointment as....., and that I will not

require, take or receive any fee, perquisite, gratuity or reward, whether pecuniary or of any other sort or description whatsoever, either directly or indirectly, for any service, act, duty, matter or thing done or performed or to be done or performed in the execution or discharge of any of the duties of my office or employment, on any account whatsoever, other than my salary, or what shall be allowed me by law. So help me God.

R.S.O. 1937, c. 23, s. 5.

Province
may be
divided
into
revenue
districts.

6. The Lieutenant-Governor in Council may divide Ontario into districts or otherwise as is required with regard to the collection or management of the revenue, and may assign the officers or persons by whom any duty or service relating to such purpose is to be performed within or for each district, and the place or places where such duty or service is to be performed, and may make all such regulations concerning such officers and persons and the conduct and management of the business entrusted to them as he may deem expedient. R.S.O. 1937, c. 23, s. 6.

Persons
employed
with the
concurrence
of the
Lieutenant-
Governor in
Council may
be deemed
the proper
officers.

7.—(1) A person employed on any duty or service relating to the collection or management of the revenue by the order or with the concurrence of the Lieutenant-Governor in Council, whether previously or subsequently expressed, shall be deemed to be the proper officer for that duty or service; and every act, matter or thing required by any law to be done or performed by, to or with any particular officer nominated for that purpose in such law, being done or performed by, to or with any person appointed or authorized by the Lieutenant-Governor in Council to act for or in behalf of such particular officer, shall be deemed to be done or performed by, to or with him.

Place for
performance
of acts re-
quired by
law.

(2) Every act, matter or thing required by law to be done at any particular place within any district of Ontario, being done at any place within such district appointed by the Lieutenant-Governor in Council for the purpose, shall be deemed to be done at the particular place so required. R.S.O. 1937, c. 23, s. 7.

Officers em-
ployed in one
branch may
be employed
in another.

8. An officer or person employed in the collection, management or accounting for any branch of the revenue may be employed in the collection, management or accounting for any other branch thereof. R.S.O. 1937, c. 23, s. 8.

Hours of
office and
seasons for
certain busi-
ness, how
appointed.

9. The Lieutenant-Governor in Council may appoint the hours of general attendance of the officers and persons employed in the collection or management of the revenue at their proper offices and places of employment, and may also appoint the times during such hours, or the seasons of the year, at which any particular parts of the duties of such

officers or other persons shall be performed by them respectively; and a notice of the hours of general attendance so appointed shall be kept constantly posted up in some conspicuous place in such offices or places of employment. R.S.O. 1937, c. 23, s. 9.

10. No officer employed in the collection of the revenue shall be required to keep his office open on any holiday. Offices may be closed on holidays. R.S.O. 1937, c. 23, s. 10.

11. The Lieutenant-Governor in Council may direct any person employed in collecting or managing the revenue to keep such books or accounts as he may deem advisable, and may allow any necessary expense incurred for the purpose. Accounts to be kept. R.S.O. 1937, c. 23, s. 11.

12. All public moneys, from whatsoever source derived, and all moneys forming part of special funds administered by the Government, shall be paid to the credit of the Treasurer of Ontario in such manner as the Lieutenant-Governor in Council may direct. Public moneys to be paid to credit of the Treasurer. R.S.O. 1937, c. 23, s. 12.

13. The Lieutenant-Governor in Council may appoint the times and mode in which any person employed in the collection or management of the revenue shall account for and pay over the money which comes into his hands to the person appointed to receive the same. Prescribing mode and times in which moneys shall be accounted for and paid over. R.S.O. 1937, c. 23, s. 13.

14. If any person refuses or neglects to transmit any account, statement or return, with the proper vouchers, to the proper officer or department on or before the day appointed for the transmission thereof, such person shall for such refusal or neglect forfeit and pay to the Crown for the public uses of Ontario, \$100, and in an action for the recovery of such sum it shall be sufficient to prove that such account, statement or return ought to have been transmitted by the defendant, and the onus of proving that the same was so transmitted shall rest upon him. Penalty for not transmitting accounts. R.S.O. 1937, c. 23, s. 14.

15.—(1) Where the Treasurer of Ontario has reason to believe that any person has received money for the Crown, or for which he is accountable to the Crown, or has in his hands public money applicable to any purpose, and has not paid over or duly applied and accounted for the same, he may give notice to such person, or to his personal representative in case of his death, requiring him within a time to be therein named, to pay over, apply and account for such money to the Treasurer, or to the officer mentioned in the notice, and to transmit the proper vouchers that he has so done. Notice to persons neglecting to pay over money received for public purposes.

Service of
notice.

(2) The notice may be served by delivering a copy to the person to whom it is addressed or by leaving it for him at his usual place of abode. R.S.O. 1937, c. 23, s. 15.

Proceedings
against per-
sons refusing
to comply
with notice.

16. If any person fails to pay over, apply or account for such money, and to transmit the vouchers within the time limited by the notice, the Treasurer may state an account as between such person and the Crown in the matter to which the notice relates, charging interest from the service, or from any earlier date from which interest may be payable, and shall deliver a copy thereof to the Attorney-General, and such copy shall be *prima facie* evidence to support an information or other proceeding for the recovery of the amount therein shown to be in the hands of the defendant as a debt due to the Crown. R.S.O. 1937, c. 23, s. 16.

Proceedings
against per-
sons trans-
mitting
accounts
without
vouchers.

17. Where such person has transmitted an account either before or after the notice, but without vouchers or with insufficient vouchers for any sum for which he therein takes credit, the Treasurer may give notice in the manner provided by section 15, to transmit vouchers, or sufficient vouchers within a time to be named in the notice; and if the vouchers are not transmitted within that time, the Treasurer may state an account against such person disregarding the sums for which he has taken credit, but for which he has transmitted no vouchers or insufficient vouchers, and may deliver a copy of the account to the Attorney-General, and the copy may be used in the same manner and with the same effect as the copy mentioned in section 16. R.S.O. 1937, c. 23, s. 17.

Responsibil-
ity for losses
arising from
malfeasance
or gross
neglect, etc.

18. If by reason of malfeasance or gross carelessness or neglect of duty by any person employed in the collection or management of the revenue a sum of money is lost to the Crown, such officer or person shall be accountable therefor as if he had collected and received the same. R.S.O. 1937, c. 23, s. 18.

Unapplied
public
money
to be paid to
the Treasurer
on demand.

19. If any person has received public money for the purpose of applying it to a specific purpose and has not so applied it within the time or in the manner provided by law, he shall be deemed to have received such money for the Crown for the public uses of Ontario, and may be notified by the Treasurer to repay such sum to him, and the same may be recovered as a debt due to the Crown, and an equal sum out of the Consolidated Revenue Fund may in the meantime be applied to the purpose to which such sum ought to have been applied. R.S.O. 1937, c. 23, s. 19.

20. If a person acting in any office or employment connected with the collection or management of the revenue takes or receives, directly or indirectly, any fee, perquisite, gratuity or reward, whether pecuniary or of any other description, from any person, not being a person authorized to pay or allow the same, on account of anything done by him in any way relating to his office or employment, except such as he receives by order or with the permission of the Lieutenant-Governor in Council, he may be dismissed from his office or employment, and if any person, not being authorized to pay or allow the same, gives, offers or promises any such fee, perquisite, gratuity or reward, he shall be guilty of an offence and liable to a penalty of \$400 for each offence. R.S.O. 1937, c. 23, s. 20.

No officer to take any fee, etc., on pain of dismissal.

21. All books, papers, accounts and documents by whomsoever the paper and materials thereof were procured, furnished or paid for, kept by or used or received or taken into the possession of any person employed or having been employed in the collection or management of the revenue, by virtue of his employment, shall be deemed to be chattels belonging to the Crown, and all moneys or valuable securities received or taken into his possession by virtue of his employment shall be deemed to be moneys and valuable securities belonging to the Crown. R.S.O. 1937, c. 23, s. 21.

All books, etc., used in the collection and the management of the revenue to be the property of His Majesty.

22. Nothing in this Act, nor any conviction for the contravention thereof, shall affect any remedy which the Crown by virtue of any other Act or law has for recovering or enforcing the payment or delivering of any money or property belonging to the Crown, and in the possession of any person, nor any remedy which His Majesty or any person has against the offender or his sureties, or against any other person; but the conviction of the offender shall not be received in evidence in any action against him. R.S.O. 1937, c. 23, s. 22.

Nothing in this Act to impair other remedies of the Crown.

